

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.396 OF 2016

EMPLOYEES STATE INSURANCE)
CORPORATION)...APPLICANT

V/s.

RAVINDRA SADASHIV SHINDE & ORS.)...RESPONDENTS

Mr.P.M.Palshikar, Advocate for the Applicant.

Mr.A.M.Adagule, Advocate for Respondent No.1.

Mr.Vinod Chate, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 6th MARCH 2017.

P.C. :

1 This is an application for condonation of delay in filing an appeal challenging the acquittal of respondents of offence punishable under Section 85 of the Employees State Insurance Act.

2 Heard the learned advocate appearing for the

applicant. He argued that as a practice, initially first opinion for challenging the judgment of acquittal was sought from the legal advisor and thereafter, second opinion was also sought from the legal advisor of the Corporation, which has resulted in delay in filing an application for leave. The learned advocate appearing for respondents opposed the application by contending that the very fact that first opinion of the legal advisor was in favour of filing an appeal challenging the acquittal, further delay in seeking another legal opinion demonstrate that the applicant was not serious in prosecuting its remedy and in that view of the matter, the delay is not *bona fide*.

I have considered the rival submissions. By condoning the delay, the ultimate result would be decision of the matter on merit. The words “sufficient cause” need to be construed liberally in order to advance the remedy. Prejudice caused to respondent nos.1 and 2 by delay in lodging an application for leave to appeal belatedly, can be compensated by directing payment of some costs to them. In this view of the matter, the following order :

- i) The application for condonation of delay in filing an application for leave to appeal is allowed subject to payment of total costs quantified at Rs.5,000/-, payable to respondent nos.1 and 2, within a period of two weeks from today.
- ii) On payment of costs, if any, within prescribed period, the application for leave to appeal be registered.
- iii) If the costs are not deposited within the prescribed time, the application shall stand rejected without further reference to this court.

(A. M. BADAR, J.)