

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.551 OF 2017

Purnandu Shekharmal JainAppellant
V/s.
The State of Maharashtra & Anr.Respondents

Mr. Subodh Desai with Mr. Sudhakar Surve i/by Mr. Karan B. Mehta , Advocates for Appellant.
Mr. H.J.Dedhia, APP for Respondent-State.

**CORAM : SMT. V.K. TAHILRAMANI, &
SANDEEP K. SHINDE, JJ.**

DATE : July 31, 2017.

ORAL ORDER : [Per Smt. V.K.Tahilramani, J.]

Heard learned counsel for the appellant and the learned APP for respondents.

2 This appeal is directed against the order dated 28.4.2017 passed by the learned Special Judge, MPID Act and the Additional Sessions Judge, City Civil Court, Bombay in Exhibit 8 which was preferred in MPID Case No. 22 of 2016. Exhibit 8 was an application preferred by the Competent Authority (In short 'CA'), i.e., Deputy Collector

(Encroachment & Removal, Malad)-Respondent No.2 for condoning the delay caused in filing the application under Section 5(3) of the MPID Act. This application came to be allowed, hence, this appeal.

3 As per Section 5(3) of the MPID Act, the CA is duty bound to file application within 30 days from the date of publication of the Notification in official gazette of the order of attachment passed by the Government, attaching the property under Section 4 of the MPID Act. The Notification was published by the Government in the official gazette on 1.4.2016, thereby attached the property in the said crime and an application on affidavit was filed by the CA under Section 5(3) of the MPID Act on 27.9.2016. As such, there was delay in filing the application by the CA. As per the CA, copy of the Notification was not received in their office by any means of communication. Hence, they could not file application under Section 5(3) of the MPID Act within time hence, application for condonation of delay.

4 Application for condonation of delay was opposed by the appellant on the ground that there was unexplained delay and the cause shown by the CA is not sufficient to condone the delay. On the other hand, on behalf of the CA, it was submitted that the cause mentioned in the application is genuine, reasonable and sufficient to condone the delay. It is a matter of general knowledge that the office of the CA, which is presided over by the Deputy Collector is very busy office and heavily overburdened with work. It is impossible to keep watch on publication of notification for a long period of time. It cannot be stated that there is any deliberate negligence or inertness on the part of the CA. One has also to keep aims and objects of the MPID Act in mind. Aims and objects provide that the property or the assets of the FE or the persons mentioned in Sec.4 should be liquidated to disburse the amount to the poor and gullible victim depositors. As such, MPID Act being special state legislation, the 'sufficient cause' is also required to be interpreted in liberal manner so as to protect the object and reasons of the act. In the case in hand, the reason put

forth by the CA to condone the delay caused in filing an application under Section 5(3) of the Act apparently seems to be sufficient and bonafide cause to condone the delay.

5 Looking to all these facts, the Special Judge has condoned the delay. Looking to the reasons given by the learned Special Judge, no case is made out for interference. The Appeal is dismissed.

(SANDEEP K. SHINDE, J) (SMT. V.K. TAHILRAMANI, J)