

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

**CRIMINAL APPLICATION No.439 OF 2015
WITH
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CRIMINAL APPLICATION No.445 OF 2015**

Mr.Nitin Kesarinath Patil ... **Applicant**

V/s.

Mrs.Priya Dhanaji Patil & Anr. ... **Respondents**

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Mr.Mahendra Agwekar i/b. Mr. Mandar Limaye, Advocate for the Applicant.

Mr.Mahindra B. Deshmukh, Advocate for the Respondent No.1.

Ms.A.A.Takalkar, APP for the Respondent/State.

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CORAM : A. M. BADAR J.

DATED : 9th JANUARY 2017.

P.C . :

1 By these applications, applicant/original complainant is seeking condonation of delay of 39 days in preferring an application for leave to appeal challenging the Judgment and Order of acquittal recorded by the learned Judicial Magistrate First Class, Washi, Navi Mumbai.

2 Heard both sides. The learned counsel appearing for the non-applicant No.1/original accused argued that no sufficient cause is demonstrated in order seek condonation of delay.

3 Perused the application. It is seen that after decision of the Judicial Magistrate First Class, Washi acquitting the non-applicant No.1 of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, necessary opinion was sought and thereafter it was decided to file proceedings challenging the said Judgment.

4 Long back in the matter of *Collector, Land Acquisition , Anantnag & Anr. v. Mst.Katiji and Ors*, AIR 1987 SC 1353, the Honourable Supreme Court has held that when technical considerations are pitted against the cause of substantial justice, the cause of substantial justice should receive preference. Even otherwise a litigation is not benefited by causing delay.

5 In this view of the matter, considering the averments made in the applications for condonation of delay in preferring an application for leave to appeal, though applications were provided for sufficient cause for not having instructions, the delay is thereby condoned.

6 Applications are accordingly disposed of.

(A. M. BADAR J.)