

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.967 OF 2016

Tauhid Abdul Rajid Khan ... Petitioner
Versus
The Senior Inspector of Police,
Khar Police Station and ors. ... Respondents

Mr.Swapnil Wagh with Mr. Sandeep Bali i/by M/s Rizwan Merchant & Associates, Advocate for the Petitioner.
Ms.Pallavi Dabholkar, APP for the State/Respondent Nos.1 and 3.
Mr. Aslam Kassam Merchant, Advocate for Respondent No.2.

— — —

CORAM : RAVINDRA V.GHUGE, J.
DATE : 22 MARCH, 2017.

P.C. :

1. The Petitioner-original accused is aggrieved by the order dated 28th June, 2016 by which the earlier order dated 23rd June, 2016 accepting the B-Summary report filed by the police indicating that there is no offence committed by the accused, has been recalled without issuing notice. The impugned order has been passed on an application dated 28th June, 2016 filed by Respondent No. 2-original complainant.
2. Learned Advocates for the respective sides and the

learned APP submit that after the B-summary report is accepted by the concerned Court, it would be rendered functus officio and the application filed by Respondent No. 2 dated 28th June, 2016 would not be maintainable. It is stated that in these circumstances, a Criminal Revision Application under section 397 Cr.P.C. would be maintainable subject to condonation of delay.

3. In the light of the above, this Petition is partly allowed. The impugned order dated 28th June, 2016 is set aside. The application dated 28th June, 2016 filed by Respondent No.2 stands disposed of, with liberty to Respondent No. 2 to prefer a Criminal Revision Application under Section 397 for challenging the order dated 23rd June, 2016. Needless to state, in the event of any delay, the time spent by the 2nd Respondent from 28th June, 2016, till this date, would be a ground to consider for condonation of delay.

(RAVINDRA V.GHUGE, J.)