

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 796 of 2016.

M/s Qawi Enterprises through its partner
Mr. Phiroz Hussain Chohan Appellant.
V/s.
State of Maharashtra & Ors Respondents.

Mr. Manjunath Hegde i/by D.S. Manerkar & Associate for the appellant.

Mrs. M.H. Mhatre, APP for the Respondent.

CORAM : S.C. DHARMADHIKARI &
SMT.BHARATI H.DANGRE, JJ.

DATE : 9th OCTOBER, 2017.

P.C. :

1 When this criminal appeal was filed, it was time barred.
An application was made being Application No. 1021/2016, seeking condonation of delay in filing the same. After delay was condoned by this Court on 7th December, 2016, the criminal appeal has been numbered.

2 On 5th January, 2017 it was placed before a Division

Bench of this Court for admission. On that day, at the request of the appellant's Advocate Shri Manerkar, it was adjourned to 12th January, 2017. On 12th January, 2017 it could not be taken for want of time. Therefore, it was adjourned to 17th February, 2017. On 17th February, 2017 once again Shri Manerkar sought time. At his request, it was adjourned to 3rd March, 2017. It could not be taken on that date but was taken on 24th March, 2017 and again Shri Manerkar sought adjournment. Again, at his request, it was adjourned to 7th April, 2017. On that day, namely 7th April, 2017 Shri Manerkar and the appellant, both were absent. Hence, the appeal was adjourned to 9th June, 2017. Thereafter, on 9th June, 2017 this Court passed the following order:

“Learned Counsel for the applicant, at the out set, seeks oral leave to annex a certified copy of interest calculation sheet to the petition. Leave as prayed for is granted. Necessary amendment to be carried out within a period of one week from today.

The Registry to place the matter on board on 16th June, 2017.”

3 From 16th June, 2017 nothing happened, except adjournments at the instance of Shri Manerkar. On 31st July, 2017, the learned APP sought time to obtain instructions. Thereafter, the matter was stood over to 18th August, 2017 and after which date, it appeared on 11th September, 2017. It was a part-heard case on 11th September, 2017 and was stood over to 21st September, 2017. Thereafter, it was stood over to 3rd October, 2017.

4 The assignment of Judicial work changed and from 3rd October, 2017 and this appeal has been appearing on our board.

5 When we enquired with the learned APP as to why the matter was part-heard. Earlier, she said that it was not considered on merits but on an objection as to whether the appeal could be treated as criminal appeal or civil appeal. On the earlier occasion, namely 3rd October, 2017, itself, it was clarified that such appeals would be appearing on the board of a Bench assigned criminal work. Therefore, Registry proceeded as per assignment.

6 We had indicated to all the parties in such appeals that

they should be ready to argue the matter on the next date. That is how this criminal appeal is listed before us today.

7 On earlier occasion and even today Shri Manerkar, learned Advocate is absent. We do not think that we can go on accommodating the counsel, even if they are stated to be in some difficulty or the other. In the circumstances, we dismiss this appeal for want of prosecution.

[SMT.BHARATI H.DANGRE, J.] [S.C. DHARMADHIKARI, J.]