

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.3888 OF 2016**

Smt. Rukhshana Irshad Sheikh Petitioner

Vs.

The State of Maharashtra & Ors. Respondents

Mr. Ganesh K.Gole, Advocate for Petitioner.
Ms. Pallavi Dabholkar, A.P.P. for the respondent- State.

Coram : Smt. R.P. SondurBaldota, J.

Date : 6th January, 2017

P.C.

1 This petition challenges the order dtd. 27th August, 2014, by which her application for condonation of delay in filing the revision application is rejected by the Sessions Court. The delay on the part of the petitioner was of 1 year and 7 months.

2 The petitioner has not annexed to the petition copy for her application for condonation of delay. Therefore, her claim for condonation is required to be noted from the present petition. At para 11 of the petition, the petitioner claims that she had applied for certified copy of the order dtd. 18th June, 2012, to be challenged in revision, on 19th June, 2014 i.e. after

the gap of two years. The certified copy was collected by her on 21st August, 2014. In the same para, the petitioner avers that she and her husband had approached the lawyer with all the papers and given necessary instructions for filing the revision application in the month of November, 2012. The order she proposed to challenge by way of revision is acceptance of the report of the investigation by police of “B” Summary by the learned Magistrate. The petitioner complains that her advocate had not explained to her the meaning of “B” Summary. Nonetheless in the month of November, 2012, itself she had approached the lawyer for filing revision application. The petitioner next refers to the application for cancellation of bail filed on 29th August, 2013 by her sister-in-law in the concerned matter. This would mean that the petitioner had been continuously in contact with her advocate in tracing the criminal proceedings, out of which the incident alleged in her complaint had occurred. The petition contains virtually no explanation for the delay between atleast November, 2012 to January, 2014 when the revision application was filed. These facts stated by the petitioner herself are sufficient for dismissal of the petition.

3 The impugned order notes that only reason set out by the petitioner in her application was that she did not have any “legal knowledge”. The Sessions Court has observed that “this is not sufficient for condonation of delay as ignorance of

law cannot be an excuse put-forward”. It has further observed that even if it is accepted that the petitioner is an illiterate person and she had no knowledge as regards the steps to be taken against the order to be challenged, it is necessary to look into her conduct. The endorsement on the certified copy which was filed alongwith the revision application shows that the application therefor had been made on 19th June, 2014. The same was ready on 4th July, 2014 and the petitioner had collected it as late as on 21st August, 2014. This delay had also remained unexplained. The Sessions Court has opined that there was total negligence on the part of the petitioner in taking recourse against the order.

4 Perusal of the record justifies the observations of the Sessions Court. Admittedly, the petitioner was aware of the order dtd. 18th June, 2012 atleast prior to the month of November, 2012. Still, she applied for the certified copy as late as on 19th June, 2014. Though the order was ready on 4th July, 2014, she did not collect it until 21st August, 2014. This conduct is clearly the conduct of negligence. Hence, the petition is dismissed.

(Smt. R.P. SondurBaldota, J.)