

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.745 OF 2016

AND

CRIMINAL APPLICATION NO.746 OF 2016

IN

CRIMINAL REVISION APPLICATION NO.338 OF 2013

WITH

CRIMINAL APPLICATION NO.747 OF 2016

AND

CRIMINAL APPLICATION NO.748 OF 2016

IN

CRIMINAL REVISION APPLICATION NO.343 OF 2013

WITH

CRIMINAL APPLICATION NO.749 OF 2016

AND

CRIMINAL APPLICATION NO.750 OF 2016

IN

CRIMINAL REVISION APPLICATION NO.344 OF 2013

WITH

CRIMINAL APPLICATION NO.751 OF 2016

AND

CRIMINAL APPLICATION NO.752 OF 2016

IN

CRIMINAL REVISION APPLICATION NO.339 OF 2013

WITH

**CRIMINAL APPLICATION NO.753 OF 2016
AND
CRIMINAL APPLICATION NO.754 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.342 OF 2013**

WITH

**CRIMINAL APPLICATION NO.755 OF 2016
AND
CRIMINAL APPLICATION NO.756 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.336 OF 2013**

WITH

**CRIMINAL APPLICATION NO.757 OF 2016
AND
CRIMINAL APPLICATION NO.758 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.337 OF 2013**

WITH

**CRIMINAL APPLICATION NO.759 OF 2016
AND
CRIMINAL APPLICATION NO.760 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.340 OF 2013**

WITH

**CRIMINAL APPLICATION NO.761 OF 2016
AND
CRIMINAL APPLICATION NO.762 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.341 OF 2013**

AMIT JHAVERI

)...APPLICANT

V/s.

HIMMATLAL GORADIA AND ANR.

)...RESPONDENTS

Mr.Sanjeev P. Kadam, Advocate for the Applicant.

Mr.R.A.Shaikh, Advocate for Respondent No.1.

Ms.A.A.Takalkar, APP for the Respondent – State in Criminal Application Nos.745 of 2016 and 746 of 2016.

Mr.S.V.Gavand, APP for the Respondent – State in Criminal Application Nos.747 of 2016 and 748 of 2016.

Mr.A.R.Kamkhedkar, APP for the Respondent – State in Criminal Application Nos.749 of 2016 and 750 of 2016.

Mr.S.V.Gavand, APP for the Respondent – State in Criminal Application Nos.751 of 2016 and 752 of 2016.

Mr.Amit Palkar, APP for the Respondent – State in Criminal Application Nos.753 of 2016 and 754 of 2016.

Mr.A.R.Kapadnis, APP for the Respondent – State in Criminal Application Nos.755 of 2016 and 756 of 2016.

Mr.Amit Palkar, APP for the Respondent – State in Criminal Application Nos.757 of 2016 and 758 of 2016.

Mr.S.V.Gavand, APP for the Respondent – State in Criminal Application Nos.759 of 2016 and 760 of 2016.

Mr.S.V.Gavand, APP for the Respondent – State in Criminal Application Nos.761 of 2016 and 762 of 2016.

CORAM : A. M. BADAR, J.

DATE : 13th JANUARY 2017.

P.C. :

1 These are applications for condonation of delay of about 3 years and 33 days in filing applications for restoration of revision applications which are dismissed for want of prosecution.

2 Learned advocates appearing for both parties submitted that applications for condonation of delay as well as applications for restoration of revision applications may be heard simultaneously. As the request is a joint request, the same is accepted. Heard the learned counsel appearing for the applicant in all cases as well as the learned counsel appearing for the non-applicant no.1 and the learned APPs for non-applicant no.2.

3 The learned counsel for the applicant argued that the applicant was prosecuting the revision application filed by him in person and unfortunately those were dismissed in default because of absence of the revisional applicant. The absence was not intentional.

4 As against this, the learned counsel appearing for non-applicant no.1 argued that initially there was conviction of accused for the offence punishable under Section 138 of the Negotiable Instruments Act (N.I.Act), but in appeal, the learned Sessions Judge had upset that conviction. However, during pendency of appeals, an amount of Rs.15 Lakh came to be deposited in terms of the order of the court. Now, because of acquittal of accused in all cases, the complainant should refund the amount of Rs.15 Lakh and in that view of the matter, revision applications, if ultimately restored, shall be required to be heard expeditiously.

5 The learned counsel for the applicant has no objection for expeditious disposal of revision applications and he argued that he is ready and willing to work out those revision applications.

6 No doubt, the delay is more than 3 years and according to the learned counsel for non-applicant no.1, it is intentional, it is well settled that when technical considerations are pitted against cause of substantial justice, the cause of substantial justice should always prevail. Moreover, it is well settled that the term 'sufficient cause' deserves to be liberally construed . By condonation of delay, ultimately what can happen is decision on merit of the matter. Prejudice caused to non-applicant no.1 can be compensated in terms of money by awarding some costs to non-applicant no.1 as a consideration for condonation of delay.

7 Considering the averments made in the applications for restoration of revision applications, the applicant deserves hearing of revision applications on merit.

8 In this view of the matter, for the reasons stated in the application, the following order :

- i) The applications for condonation of delay as well as those for restoration of revision applications are allowed subject to payment of costs of Rs.2,000/- per application to the learned counsel appearing for non-applicant no.1, within a period of two weeks from today.
- ii) On payment of costs, revision applications shall stand restored to file.
- iii)Hearing of revision applications is expedited.

(A. M. BADAR, J.)