

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRI. APPLICATION (APPA) NO. 727 OF 2016

IN

CRIMINAL APPEAL NO. OF 2017.

(KAZI NAZIMODDIN JAMIRODDIN...VS.. QAZI MOHD. SHAHBAZ KHAN & ANR.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Ved Deshpande, Adv.h/f. Shri S.V.Sirpurkar,Adv. for Applicant.
Shri A.D. Sonak, A.P.P. for Non-applicant No.2.

CORAM : Z.A.HAQ, J.

DATED : JUNE 22, 2017.

None appears for the non-applicant / respondent
No.1, though served.

The complaint filed by the applicant/ appellant under Section 500 of the Indian Penal Code was dismissed in default on 20th June, 2013. The applicant had filed an application on 24th June, 2013 seeking restoration of the complaint and the learned Magistrate restored the complaint by order passed on 9th July, 2013. This order was challenged by the non-applicant/ respondent in Criminal Revision No.140 of 2013 before the Sessions Court. The revision came to be allowed by order dated 20th July, 2016 and the Sessions Court held that the application filed by the applicant/ appellant seeking restoration of the complaint was not maintainable. After the revision is allowed by the Sessions Court, the complainant has filed appeal before this Court and as there is delay in filing the appeal this application is filed.

Considering the explanation given by the applicant and the facts of the case, the delay of 1001 days in filing the appeal is condoned.

Criminal Application is **allowed** accordingly.

CRI.APPEAL NO. OF 2017.

List the Criminal Appeal for hearing on admission and further consideration on **10th July, 2017.**

As the non-applicant/ respondent No.1 is aware about the pendency of these proceedings as recorded above, fresh notice to the non-applicant/ respondent is not required. However, the applicant shall send notice by Speed Post A.D. along with copy of this order and copy of memo of appeal to the respondent No.1.

The appellant shall file affidavit about service of notice on the respondent No.1 before next date.

JUDGE

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