

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 193 OF 2017
IN
STAMP NUMBER MAIN NO. 907 OF 2017

NARENDRA BHUKTI., ... Applicant

Versus

HEMANT DHARMA CHODANKAR., ... Respondent

Mr. Pranay A Kamat, Advocate for the applicant.
Mr. Rohan Pandurang Desai, Advocate for Respondent No.1.

Coram:- PRITHVIRAJ K. CHAVAN, J.

Date:- 16th January 2018

P.C.

This is an application for condonation of delay of 115 days in filing the appeal.

2. Facts, in brief, are as follows:-

In Criminal Complaint Case No.136/0A/NIA/2014/A, the learned J.M.F.C., by its judgment and order dated 20.8.2016 has acquitted the accused under Section 138 of the Negotiable Instruments Act. The applicant is the original complainant. The said judgment of acquittal, according to the applicant, was wrongly challenged before the District Court, vide Criminal Appeal No.77/2016. When the respondent took objection, the applicant withdrew the said appeal on 21.11.2017, in order to file

the same, before the High Court.

3. It is contended that since the applicant fell sick and could not contact his Advocate, there was a delay in filing the appeal. Even though, certified copy was issued on 1.3.2017, it was collected on 18.3.2017 and thereafter, the applicant approached his Advocate. As such, the delay of 115 days had been caused.

4. The learned counsel for the respondent took strong objection for condoning the delay by stating that there is absolutely no documentary evidence on record to show that the applicant, in fact, approached the Sessions Court under the wrong impression that the appeal against acquittal would lie before that Court. Secondly, there is no Medical Certificate justifying the sickness of the applicant resulting into the delay.

5. After hearing the respective counsel, I am of the opinion that the applicant has failed to justify such a long delay, as neither the applicant has tendered any document to show that the time elapsed in prosecuting the remedy of appeal before the Sessions Court nor tendered any Medical Certificate to justify the so-called illness of the applicant due to which, the delay has been caused. The appeal is against the judgment and order of acquittal and, therefore, perhaps in order to harass the respondent, the applicant-appellant has approached the Appellate Court. Be that

as it may.

6. There is no substance in the application, as there is no sufficient cause shown by the applicant in condoning the delay. Consequently, the application stands rejected.

PRITHVIRAJ K. CHAVAN, J.

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