

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.279 OF 2017

Sou. Radha Kumar Puribuva

....Applicant

V/s.

Laxman Bapu Mane & Anr.

....Respondents

....

Mr. Vaibhav R. Gaikwad, Advocate for the Applicant.

Mr. Samarth Moray i/b.Mr.V.S. Talkute for respondent No.1.

Mrs. M.R. Tidke, APP for respondent No.2/State.

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CORAM : A.M.BADAR, J.

DATED : 23rd OCTOBER 2018.

P.C. :

1. This is an application for condonation of delay in preferring an application for leave to appeal. The application is by the alleged victim of the crime in question. She wants to challenge the Judgment and Order of acquittal of the respondent of the offence punishable under Section 376 of the Indian Penal Code. There is delay in preferring the application for leave to appeal.

2. Heard the learned counsel for the applicant/First

Informant. He argued that there is some delay in preferring the application for leave to appeal as the Judgment itself was not ready for about two months and thereafter the applicant contacted her Advocate and decided to challenge the said Judgment and Order of acquittal. It is further argued that the applicant was required to raise necessary funds for preferring an application for leave to appeal. It is further argued that the State has also challenged the acquittal and the application for condonation of delay of 193 days preferred on behalf of the State is allowed by this Court.

3. The Advocate appearing for the respondent/accused vehemently opposed the application by contending that the averments made in the application do not constitute sufficient cause. The reason given by the applicant is not sufficient for condoning the delay, and therefore, the application deserves to be rejected.

4. Undisputedly, the State has also filed an application for leave to appeal in order to challenge acquittal of the respondent/accused of the offence punishable under Section 376

of the Indian Penal Code and other allied offences. The delay in preferring such application by the State is already condoned by this Court.

5. The applicant claims to be the victim of the crime in question. She could not prefer an application for leave to appeal in time as she was seeking legal advise and then she was raising funds for engaging the counsel and filing the appropriate application. This, in my opinion, constitutes sufficient cause. Hence, the order.

- : ORDER : -

- I) The application is allowed.
- II) The delay in filing an application for leave to appeal is condoned.
- III) The application is disposed of accordingly.

(A.M.BADAR J.)