

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.39 OF 2017

The Municipal Corporation of
Greater Mumbai ... **Applicant**
V/s.
Pramodbhai Shah & Ors. ... **Respondent**

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Mr.Kunal Waghmare, Advocate for the Applicant/M.C.G.M.

Mr.P.H.Gaikwad-Patil, APP for the Respondent No.4/State.

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CORAM : A.M.BADAR J.

DATED : 22nd OCTOBER 2018.

P.C. :

1 This is an application for condonation of delay of 235 days in preferring an application for leave to appeal for challenging the Judgment and Order dated 22/12/2015 passed by the learned Metropolitan Magistrate, 42nd Court, Shindewadi, Dadar, Mumbai.

2 Heard the learned Counsel appearing for the applicant.
He argued that on 23/07/2011, the inspection was conducted and
inspection report of the Junior Engineer shows that repairs to

ceiling, columns and beams are necessary. It is further argued that the learned trial Court erred in placing reliance on the Judgment in the matter of M/s.Silver Land Developers Pvt. Ltd. v. The State of Maharashtra and Anr. passed on 15/03/2013 in Criminal Application No.408 of 2011. Similarly, the learned trial Court erred in holding that if a person fails to remove or pull down the unauthorized work, then he shall be punished under provisions of 475 A of the Mumbai Municipal Corporation Act, 1888. Therefore, according to the learned Counsel for the applicant, the impugned Judgment and Order cannot be sustained. He submits that there is sufficient cause to condone the delay.

3 None appeared for respondent Nos.1 to 3 despite service. The learned Additional Public Prosecutor appears for the State.

4 The respondent Nos.1 to 3 were prosecuted at the instance of the Mumbai Municipal Corporation for the offence punishable under Section 475A read with Section 354 of the Mumbai Municipal Corporation Act, 1888. After due trial, they came to be acquitted of the alleged offences vide Judgment and Order dated 22/12/2015. The applicant, feeling dissatisfied by the said Judgment and Order has preferred an application for leave to appeal along with the instant application as there is delay of 235 days for preferring an application for leave to appeal.

5 Perusal of the application of condonation of delay shows that the single reason advanced is examination of the matter by the Legal Department of the Mumbai Municipal Corporation and then coming to the conclusion that the Judgment and Order of the learned trial Court is suffering from serious misconception of law and, therefore, the same deserves to be challenged by preferring an appeal.

6 The application for condonation of delay does not contain any explanation as to how inordinate delay of 235 days has occasioned for preferring an application for leave to appeal. The application does not reflect sufficient cause for not preferring an application for leave to appeal within time. It is bereft of details.

7 The application is, therefore, rejected.

(A.M.BADAR J.)