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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 619 OF 2016

Sham R. Bhavsar & Anr.

..Petitioners

Vs

Through the Secretary, District Legal Services
Authority & Anr.

..Respondents

Ms. Avanti Inamdar I/b Rameshwar N. Gite for Petitioners.
Mr. A.R. Patil, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 1st October 2018.

P.C.:

1] By the present petition under Article 227 of the Constitution of India, the petitioners, parents of deceased Sushil S. Bhavsar have impugned the Judgment and Order dated 12th January 2016 passed by the learned Additional Sessions Judge-2, Nashik in Criminal Misc. Application No.124 of 2015, rejecting the said application for condonation of delay of 150 days.

2] The record indicates that, the application preferred by the applicants for compensation under section 357 of Cr. P.C on the ground

that, their son was murdered by Vishal Chaoudhari on 15.1.2012. A crime bearing No.93 of 2012 was registered against the said accused. When the said accused Vishal was in jail, he was also murdered by another inmate of the jail namely Sopan. Therefore the trial against the said Vishal stood abated and could not be concluded. The learned Chief Judicial Magistrate, Nashik by its Order dated 16.2.2015 passed below Exh.1 in Criminal Misc. Application No.378 of 2014 was pleased to reject the said application. The petitioners thereafter preferred Revision against the said Order dated 16.2.2015. As there was a delay of 150 days in preferring the said Revision, the petitioners filed an application for condonation of delay. The said application has been rejected by the impugned Judgment and Order dated 12th January 2016 on the ground that, the reasons put forth by the petitioners were vague and unacceptable. The Revisional Court observed that, there was total inaction and negligence on the part of the petitioners to prefer Revision against the impugned Order within the stipulated period of limitation.

3] The learned counsel for the petitioners submitted that, every day's delay must not be explained and a pedantic approach should not be made and the doctrine must be applied in a rational, common sense and

pragmatic manner. In support of his contention, he relied on the decision of the Honourable Supreme Court in the case of the Collector Land Acquisition, Anantnag and Anr. Vs. Mst. Katiji & Ors. Reported in ((1987) 2 SCC 107. She submitted that, the petitioners have properly explained the reasons for condonation of delay in their Criminal Misc. Application No.124 of 2015. She further submitted that, the delay of 150 days may not be termed as inordinate delay which cannot be condoned by the Revisional Court on the grounds mentioned therein.

4] Perusal of the record indicates that, in the application preferred by the petitioners i.e. Criminal Misc. Application No.124 of 2015 for condonation of delay, the petitioners have given sufficient reasons for condonation. In view of the ratio laid down by the Honourable Supreme Court in the case of the Collector Land Acquisition, Anantnag and Anr. Vs. Mst. Katiji & Ors (supra) and in the interest of justice, I am inclined to condone the delay of 150 days in preferring the Revision by the petitioners against the Order 16.2.2015 passed by the learned Chief Judicial Magistrate, Nashik. The delay is accordingly condoned and the impugned Order dated 12th January 2016 passed by the learned Additional Sessions

Judge-2, Nashik in Criminal Misc. Application No.124 of 2015 is set aside.

5] In view thereof, the petition is allowed in terms of prayer clauses (a) and (b).

6] The Revisional Court is directed to hear the Revision of the petitioners on its own merits and to make an endeavour to conclude the hearing of the same within a period of one year from today.

Anil
Chandrakant
Dond

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by Anil
Chandrakant
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Date: 2018.10.10
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(A.S.GADKARI, J.)