

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.345 OF 2017

IN

CRIMINAL APPEAL (STAMP) NO.198 OF 2017

RAJESH DATTU KAKAD

)...APPLICANT

V/s.

JAYESH DIGAMBAR RAVLEKAR AND ANR.)...RESPONDENTS

Mr.Avinash Reddy i/b. Mr.Raju Yamgar, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent – State.

Mr.Hemant R. Haryan a/w. Ms.Geetika Rajpal, Advocate for Respondent No.1.

CORAM : A. M. BADAR, J.

DATE : 6th APRIL 2018

P.C. :

1 This is an application for condonation of delay of 221 days in preferring the appeal.

2 The applicant had filed an application purported to be one under Section 340 of the Code of Criminal Procedure

requesting the learned Additional Sessions Judge, Thane, to make inquiry into the offence referred to in Clause (b) in sub-section (1) of Section 195 of Code of Criminal Procedure. The learned Additional Sessions Judge, after hearing the said application, was pleased to reject the same vide order dated 21st March 2016. This order rejecting the application under Section 340 of the Code of Criminal Procedure moved by the present applicant is sought to be challenged in appeal and as the said appeal is barred by limitation, the instant application for condonation of delay.

3 I have heard the learned Advocate appearing for the applicant. He took me through paragraph 2 of the application and submitted that the wife of the present applicant delivered a baby in the month of May 2016 and therefore, the applicant was busy in taking care of his wife and children. He was busy in his professional commitments, and therefore, the appeal could not be filed within limitation.

4 The learned Advocate appearing for respondent no.1
opposed the application by contending that the delay in lodging
the appeal is not at all bonafide and therefore, the application
deserves to be rejected.

5 I have also heard the learned APP.

6 Quantum of delay is not material. What is material is
whether sufficient cause is made out for seeking condonation of
delay. In the case in hand, there is delay of 221 days in filing the
appeal challenging the order dated 21st March 2016. The
certificate attached to the instant application shows that wife of
the applicant had delivered a child on 20th May 2016. Even if it is
assumed that the applicant was busy in taking care of his wife and
new born baby, there is no justification for filing the application
along with the appeal in December 2016. It is hard to believe that
the applicant was busy in taking care of his wife for all these
months till the end of December 2016, because of her delivery.
The other reason stated in the application is professional

commitments. What were those professional commitments and how the applicant could not file appeal within the period of limitation because of such professional commitments is not explained in the body of the application. The cause title of the application itself shows that the applicant is an advocate by profession. What prevented him from not filing the appeal within limitation is not explained in the application. In other words, no sufficient cause is demonstrated and made out for condoning the delay of 221 days in preferring the appeal.

7 As no sufficient cause is demonstrated and made out, the application for condonation of delay is rejected and consequently, the appeal also stands disposed of.

(A. M. BADAR, J.)