

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.496 OF 2017

IN

CRIMINAL APPEAL (ST) NO.300 OF 2017

Ms. Simran Shivkumar Mishra

....Applicant

V/s.

The State of Maharashtra & Ors.

...Respondents

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Ms. Sayali Dhuru i/b.Mr.K.S.Patil, Advocate for the Applicant.

Mr. P.D. Prasad Rao i/b.Dr.Gita Kasturi & Co for respondent Nos.2 and 3.

Mr. S.V. Gavand, APP for respondent No.1/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 of 54 days in preferring an appeal challenging order rejecting the application under Section 340 of the Code of Criminal Procedure.

2. Heard the learned Counsel appearing for the applicant. She argued that the applicant is 19 years old girl and she was required

to travel from Kharghar to Alibaug. Thereafter, she was required to approach to the Advocate at Bombay for seeking legal advise for steps to be taken in the matter and in following this procedure, the delay has occasioned.

3. The learned Counsel appearing for respondent Nos.2 and 3 opposed the application by contending that during the period in question, the applicant was prosecuting other cases and therefore, it cannot be said that she was prevented by sufficient cause in not approaching this Court within limitation.

4. The learned Counsel for the respondents submits that the cost is required to be imposed on the applicant.

5. I have considered the rival submissions and also perused the application.

6. The applicant had preferred an application under Section 340 of the Code of Criminal Procedure alleging commission of perjury. That application was rejected. The applicant seems to be a young girl. Undisputely, she is resident of Kharghar. The matter was in the Court at Alibaug. The appeal lies before this Court at Mumbai. The applicant has submitted that she took time to

contact the Advocate at Mumbai and to seek legal advise in the matter, which resulted in delay in filing the appeal. The reasons so stated do constitute a sufficient cause in the light of the fact that the averments are not controverted by filing the counter-affidavit. Once sufficient cause is shown, in my opinion, there is no question on imposing cost on the other side. As the delay is so marginal, I do not want to impose cost in the matter. Hence, the order.

- : ORDER : -

- i) The application is allowed.
- ii) The delay in filing the application for leave to appeal is condoned.
- iii) The application is accordingly disposed of.

(A.M.BADAR J.)