

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.195 OF 2015

POPAT MARUTI GHANVAT

)...APPLICANT

V/s.

SHIVLAL DHONDIBA DHANUKADE & ORS.)...RESPONDENTS

Mr.Sumit Kate i/b. Mr.Uday Warunjikar, Advocate for the Applicant.

Mr.Satyavrat Joshi, Advocate for Respondent Nos.1 and 2.

Mrs.M.R.Tidke, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 15th OCTOBER 2018

P.C. :

1 This is an application for condonation of delay in preferring the application for leave to appeal in order to challenge the judgment and order of acquittal of the respondent nos.1 and 2 of the offence punishable under Section 138 of the Negotiable Instruments Act.

2 Heard the learned counsel appearing for the applicant/original complainant. He argued that mother of the applicant expired on 7th October 2014 i.e. after passing of the impugned order. Prior to that, the mother of the applicant was hospitalized. Thereafter, the applicant suffered from ailment. This has caused delay in preferring the application for leave to appeal.

3 The learned counsel appearing for respondent nos.1 and 2 vehemently opposed the instant application by submitting that the delay is inordinate and is not at all explained to constitute sufficient cause in not preferring the application within limitation. He, therefore, submits that theoretically right accrued in favour of the respondents/accused to consider the judgment of acquittal as final. The application, therefore, needs to be rejected.

4 I have considered the submissions so advanced and also perused the application as well as the documents annexed thereto. Averment made in the application which is on

affirmation is duly corroborated by the Death Certificate as well as Medical certificate and papers of medical treatment. Hence, I am of the considered opinion that sufficient cause is demonstrated by the applicant for delay in filing the application for leave to appeal.

Therefore, the order :

ORDER

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

(A. M. BADAR, J.)