

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 2422 OF 2017**

Khandebharad Ashok Shripati

....Petitioner.

Vs.

Ramdas Murlidhar Medankar & Anr.

....Respondents.

Mr. S. Shirke I/by Uday Warunjikar for the Petitioner.

Mr. A.R. Patil APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 11th SEPTEMBER, 2018.

P.C.:-

The Petitioner, an accused in S.T.C. No. 290 of 2012 filed under Section 138 of the Negotiable Instruments Act by the Respondent No.1, has impugned Order dated 11th May, 2012 passed below Exhibit 6, thereby allowing the Application for condonation of delay of 29 days in filing the Complaint subject to payment of cost of Rs.5,000/-.

2 The learned counsel appearing for the Petitioner submitted that, the Respondent No.1/Complainant has not given sufficient reasons for condonation of said delay and the Trial Court, without taking into consideration the said vital aspect, has allowed the said Application.

He submitted that, the Respondent No.1 ought to have filed Complaint within the period of limitation, which he did not do and therefore, there is no justification for condonation of delay. He therefore, prayed that the impugned Order may be set aside and the Petition may be allowed.

3 The proviso to Section 142(b) of the Negotiable Instruments Act, permits the Magistrate to take cognizance of the Complaint after the prescribed period mentioned in Section 138 of the Negotiable Instruments Act, if the Complainant satisfies the Court that, he had sufficient cause to show as to why he had not filed the Complaint withinin the said period. In the present case, the Complainant/the Respondent No.1 has given specific reasons for not lodging the Complaint within the period of limitation, which weighed in the mind of the Trial Court.

4 Perusal of the Application filed by the Respondent No.1 below Exhibit-6, would indicate that, sufficient reasons have been given by him for not lodging the Complaint within the period of limitation. I find that, the reasons given by the Respondent No.1 are indubitably sufficient to condone the delay of 29 days in lodging the Complaint.

5 After perusing the record, this Court is of the considered view that, the impugned order passed by the learned Trial Court does not suffer from any error either in law or on facts and interference of this Court under Article 227 of the Constitution of India in it, is not necessary.

6 The Petition is accordingly rejected.

(A.S. GADKARI, J.)

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