

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.250 OF 2017

Ek Nath (Chintaman) Moreshwar Deshmukh ...**Applicant**

V/s.

Anil Balku (Valku) Pathare & Anr. ...**Respondents**

.....

Mr. Ajit R. Pitale, Advocate for the Applicant.

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

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CORAM : A.M.BADAR, J.

DATED : 5th OCTOBER 2018.

P.C. :

1. This is an application by the original complainant/husband seeking leave to appeal in order to challenge the Judgment and Order dated 11.05.2017 passed by the learned Judicial Magistrate, First Class, Murbad, Dist. Thane in Regular Criminal Case No.96/2013 between the parties, thereby acquitting the respondent No.1 of offence punishable under Section 497 of the Indian Penal Code.

2. Heard the learned counsel appearing for the

applicant/original complainant. He argued that the learned trial Court erred in acquitting the respondent No.1 of the alleged offence despite there being sufficient evidence to connect him with the crime in question.

3. I have considered the submissions so advanced and also perused the material made available on record. As of now, the Hon'ble Supreme Court has declared that Section 497 of the Indian Penal Code is unconstitutional and the same is struck down. As such it is effaced from the statute book. That apart, it is seen that there is inordinate delay in filing the complaint. The incident alleged was that of 26.07.2009. The complaint was lodged in the year 2013. Despite availability of documentary evidence, the same was not placed on record. As such by taking plausible view of the matter, the said complaint was dismissed by the learned Judicial Magistrate, First Class on 11.05.2017.

4. No case for interference as such is made out.

5. The application is, therefore, rejected.

(A.M.BADAR J.)