

2017. By assigning these reasons it was prayed that delay be condoned. Learned Sessions Judge, however, observed that delay was of about 156 days. The petitioners had failed to show sufficient cause for condonation of delay in accordance with Section 5 of Limitation Act. Learned Sessions Judge, therefore, rejected the application for condonation of delay. It was observed that the petitioner no.2 is resident of Mumbai and even she had not taken any steps for challenging the order of process. Thus, there was no reason to condone the delay.

2. The advocate for petitioners submits that the Sessions Court has not considered the explanation for condonation of delay in proper perspective. The reasons were assigned in the application for condonation of delay. It is not expected that every day's delay should be explained. The petitioners are being prosecuted u/s 406, 420, 506 of IPC etc.. The petitioners be given an opportunity to contest the revision application on merits.

3. The counsel for respondents submitted that the petitioners were not diligent in pursuing the remedy of revision application. The explanation which was tendered in the application for condonation of delay was not sufficient to condone the delay. The petitioners had failed to show sufficient cause to condone the delay. Although petitioner no.2 is residing in Mumbai, she did not pursue her remedy by filing the revision application. In the absence of plausible explanation, the delay may not be condoned.

4. On perusal of the impugned order and the documents on record it appears that there was delay of about 150 days in

preferring the revision application. The petitioners had given explanation as stated above and sought condonation of delay. The petitioner no.1 appears to be employed in UAE. Petitioner no.2 is the wife of petitioner no.1. Although there is delay in preferring the revision application, the Courts are not expected to take hyper-technical view in the matters of condonation of delay. Unless the delay is exorbitant, the parties should not be deprived of contesting the matters on merits. In the circumstances, the impugned order is required to be set aside with directions to Sessions court to hear the revision application on merits. Hence, I pass following order :

ORDER

- (i) Impugned order dated 4th May 2017 passed by the Additional Sessions Judge, Greater Bombay in Miscellaneous Application No.292 of 2017 is quashed and set aside;
- (ii) The Sessions Court is directed to hear the revision application preferred by the petitioners on merits and decide the same in accordance with law;
- (iii) Criminal Writ Petition No.3113 of 2017 stands disposed off.

(PRAKASH D. NAIK, J.)

MST