

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2889 OF 2015**

Thane Municipal CorporationPetitioner.
Vs.
Shubhangi Sanjay PitaleRespondent.

**WITH
CRIMINAL APPLICATION NO. 335 OF 2018
IN
WRIT PETITION NO. 2889 OF 2015**

Subhash Digambar DhombreApplicant.

IN THE MATTER BETWEEN-

Thane Municipal CorporationPetitioner.
Vs.
Shubhangi Sanjay PitaleRespondent.

Ms. Tanvi Kamat I/by Mr. Mandar Limaye for the Petitioner.
Mr. S.S. Hulke APP, for the Respondent-State.
Mr. A.M. Savagave for the Respondent No.1.
Mr. Vivek Salunkhe for the intervenor.

**CORAM : A. S. GADKARI, J.
DATE : 24th SEPTEMBER, 2018.**

P.C.:-

By the present Petition under Article 227 of the Constitution of India, the Petitioner has challenged the Judgment and Order dated 23rd October 2013, passed by the learned District Judge-8, Thane, in Criminal Miscellaneous Application No. 97 of 2013 rejecting the said Application, for condonation of 201 days delay in

preferring the Revision against the Order dated 23rd June, 2012 passed by the learned Judicial Magistrate, First class, 4th Court, Thane dismissing the Complaint filed by the Petitioner.

2 Heard Mr. Limaye, the learned counsel for the Petitioner, Mr. Savagave the learned counsel for the Respondent No.1, Mr. Salunkhe, the learned counsel for the intervenor and the learned APP. Perused the record.

3 The record indicates that, the Petitioner filed the Complaint under Section 420 of the Indian Penal Code and under Section 398 of the Bombay Provincial Municipal Corporation Act in the Court of Judicial Magistrate, First Class, Thane bearing Criminal case No. 4666 of 2010, which was dismissed by an Order dated 23rd June, 2012 on the ground that, the same was filed beyond the period of limitation as contemplated under Section 468 of the Code of Criminal Procedure.

4 The Petitioner, therefore, filed the Revision with delay of 201 days. The said Revision has been dismissed by a well reasoned Judgment and Order dated 23rd October 2013, which is impugned herein.

5 It is to be further noted here that, the present Petition is

filed after lapse of about 21 months and it also suffers from delay and laches. The record indicates that, the Petitioner, since the inception of launching of the criminal prosecution was lethargic and was not serious enough in prosecuting the Respondent No.1 and therefore, there is delay at every stage.

6 If there is delay in lodging the Complaint itself, Section 468 of the Code of Criminal Procedure does not permit to condone the same and therefore, the learned Magistrate was and is right in dismissing the said Complaint by holding that, if the complaint is lodged beyond the period of limitation, cognizance cannot be taken of it. Section 468 of the Code of Criminal Procedure bars from taking cognizance of an offence after lapse of limitation, mentioned therein.

7 After perusing the record, this Court is of the considered view that, both the Courts below have not committed any error either in law or on facts.

8 Petition being devoid of any merits, accordingly rejected.

9 In view of the rejection of the Writ Petition No.2889 of 2015, Application No. 335 of 2018 does not survive and is also accordingly disposed off.

(A.S. GADKARI, J.)

S S
Mashalkar

Digitally signed
by S S Mashalkar
Date: 2018.10.08
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