

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 4366 OF 2017

Kamlesh Lallbhai Patel

.Petitioner

Vs.

The State of Maharashtra & anr.

.Respondents

Mr. Girish Kulkarni i/b. Ms Mrunmai Kulkarni, Advocate, for the
Petitioner

Mr. V. V. Gangurde, APP, for the Respondent No. 1 – State

Mr. Y. M. Thakur, Advocate, for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.

DATE : 20.02.2018

P.C.

. Heard learned counsel for the parties.

2. By this Petition, the Petitioner has impugned the Order dated 08.09.2017 passed by the learned Additional Sessions Judge, Greater Mumbai, by which the learned Judge was pleased to reject the Petitioner's Application (for condonation of delay), being Cri. M. A. No. 1441 of 2017 filed in Cri. Revn. Appln. against the order of issue process dated 16.01.2015 passed by the learned Metropolitan Magistrate, 36th Court, Ahmedabad in C. C. No. 5224 / SS / 2016.

3. Perused the papers as well as the impugned order. It appears that although in the Application, it is mentioned that there was a delay of 108 days caused in filing the Revision Application, the delay was more than 200 days. Learned counsel for the Petitioner submits that the delay caused in filing the Revision Application was neither intentional nor deliberate. He submits that the learned Judge ought to have condoned the delay and heard the Revision Application on merits.

4. Learned counsel for the Respondent No. 1 opposes the Petition. He submits that there was no sufficient cause or reason set out in the Application for condoning the delay and hence, the learned Judge rightly rejected the said Application i. e. Cri. Misc. Appln. No. 1441 of 2017. It appears that although sufficient explanation has not been offered in the delay condonation Application, only by way of indulgence and in the interest of justice, the impugned Order dated 08.09.2017 passed by the learned Additional Sessions Judge, Greater Mumbai rejecting the Petitioner's Application being Cri. M. A. No. 1441 of 2017 is quashed & set aside, on the condition that the Petitioner deposits a sum of Rs. 50,000/- with the Tata Memorial Cancer Hospital (to be used for children undergoing cancer treatment) within two weeks from today. The Petitioner to produce a copy of the said receipt on the next date

before the trial Court.

5. Accordingly, the Petition is allowed in the aforesaid terms.
6. Registry of the Sessions Court shall number the Revision Application and hear the same on its own merits.

All contentions of all the parties are kept open.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)