

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

**CRIMINAL APPLICATION NO.671 OF 2016
IN
CRI. REVISION APPLICATION (ST.) NO.669 OF 2016**

The State of Maharashtra .. Applicant

Vs.

Vishwas Vasant Tamhankar & Anr. .. Respondents

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Mr.S.S. Pednekar, APP for the Applicant – State.
Mr.Divakar Rai a/w. Mr.R.N. Gaonkar, Advocate for Respondent
Nos.1 and 2.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 6, 2018.

P.C. :

This is an application for condonation of delay in preferring Criminal Revision Application Stamp No.669 of 2016.

2 The Applicant/State of Maharashtra has challenged the judgment and order dated 1st October, 2015, passed by the learned Additional Sessions Judge, Greater Mumbai in Discharge Application in ACB Special Case No.82 of 2014, wherein the application preferred by the respondents for discharge was allowed.

3 The respondents-accused were prosecuted for the offences punishable under Sections 7, 12, 13(1)(d)(i) and 13(1)(c) read with Section 13(2) of the Prevention of Corruption Act. There is delay of about 314 days in preferring the said Revision Application. In the application for condonation of delay it is stated that the impugned order was passed on 1st October, 2015. Thereafter, application for certified copy was preferred and subsequently proposal was submitted to the Law and Judicial Department with the request to challenge the impugned order. The proposal, was, thereafter, scrutinized by the officer of the Law and Judiciary Department and Resolution was passed on 23rd August, 2016, which was then forwarded to the office of Public Prosecutor and in pursuant to that the application has been filed in this Court. It is also stated that after the matter was assigned to the concerned learned public prosecutor for drafting the application, he was required to go through the papers, charge-sheet, other documents and the impugned orders and thereafter, application was preferred which had occasion to delay of about 314 days. The learned counsel for the respondents opposed the application for condonation of delay. It is submitted that the application for certified copy was made belatedly and even after the receipt of the certified copy, there was complete inaction on

the part of the concerned authorities in preferring the application. There is no plausible explanation for condonation of delay. However, the delay is required to be explained.

4 I have considered the explanation tendered in the application for condonation of delay. It is noted that after obtaining certified copy, the papers were put up before the concerned department and the procedural safeguards were required to be followed which has resulted into the delay. The Supreme Court in several decisions has observed that a pedantic approach shall not be adopted while considering the issue of limitation in preferring appropriate proceedings. The parties were given an opportunity to challenge the orders on merits. In the case of ***Special Tahasildar, Land Acquisition, Kerla Vs. K.V. Ayisumma***¹. The Supreme Court has observed that while dealing with application for condonation of delay by the Government, the Court should be pragmatic and not pedantic. Government should not be insisted upon to explain every days delay. For the reasons stated in the application and after hearing the submissions advanced by both the parties, the delay in preferring the Revision Application can be condoned.

1 (1996) 10 SCC 634

5 Hence, I pass the following order:

:: ORDER ::

- (i) Criminal Application No.671 of 2015 is allowed
in terms of prayer Clause (a);
- (ii) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)