

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

CRIMINAL WRIT PETITION NO. 4914 OF 2018

Mr.Machindra Sakharam Mhatre ... Petitioner

Vs.

Mr.Shamrao Narayan Patil & Anr. ... Respondents

Ms.Hemlata M. Whaval for the Petitioner.
Mr.A.R.Patil, APP for Respondent No.2– State.

**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: NOVEMBER 27, 2018**

P.C.:

1. Upon urgent mentioning, taken on production board.
2. The learned counsel for the petitioner submits that her other prayer for setting aside the judgment of conviction dated 28.05.2018 passed by the learned Judicial Magistrate First Class, Thane is not to be considered, but she only prays that clause no. 1] a] of the operative part of the order dated 31.07.2018 passed by the learned Additional Sessions Judge-1, Raigad- Alibag in Criminal Misc. Application No. 510 of 2018 is to be recalled and heard and Criminal Appeal be restored to its original file along with other orders passed therein.
3. Being aggrieved by the judgment and order dated 28.05.2018, the petitioner/accused had filed Criminal Appeal. There was a delay of

two days. The said delay was condoned by the learned Additional Sessions Judge vide order dated 31.07.2018. However, while condoning the delay, the accused was directed to deposit cost of Rs.1000/- within 20 days from the date of the said order failing which the application stands rejected.

4. The learned counsel for the petitioner produces photocopy of the receipt of the payment of costs of Rs.1000/-. It discloses the date of the payment as "23.08.2018", however, the amount ought to have been paid on or before 20.08.2018. Thus, there is a delay of two days in making payment of the said cost.

5. The learned APP submits to the order of this Court.

6. Heard submissions. Writ Petition is allowed with following order :

ORDER

Self operative order of dismissal in clause No. 1] a] of the order dated 31.07.2018 passed by the learned Additional Sessions Judge-1, Raigad Alibag is hereby recalled. Appeal is restored to its original file along with orders passed therein. If non-bailable warrant is issued, then it is to be cancelled.

(MRIDULA BHATKAR, J.)