

Sarnobat

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

CRIMINAL APPLICATION NO. 839 OF 2015

Jayshree Deepak Shah. .. Applicant.
Vs.
Yasmina Naresh Chauhan & Anr. .. Respondents

Ms. Jayshree D. Shah, the Applicant in-person.
Mr. Jeet Gandhi, for the Respondent No.1.
Ms. R. M. Gadhvi, for the State.

CORAM : PRAKASH D. NAIK, J.

DATE : 25th JANUARY, 2018.

P. C. :

1. This an application seeking condonation of delay in preferring application for leave to file appeal against the judgment and order dated 11th December, 2014.

2. The applicant is the original complainant in the complaint filed for an offence under section 138 of Negotiable Instruments Act. The respondent No. 1 was prosecuted in the said complaint which had resulted in acquittal vide judgment and order dated 11th December, 2014 . The applicant filed an appeal before the Sessions Court on 5th January, 2015. The said appeal was withdrawn on 30th October, 2015. The applicant has thereafter, preferred an application seeking leave to file an appeal in the Court on 15th December, 2015.

3. It is apparent that the applicant had resorted to remedy under misconception that the appeal is provided before the Sessions Court. The applicant who is appearing in-person submitted that the Sessions Court had also issued notice to the respondent and thereafter, on legal advise the appeal was withdrawn .Therefore, there is delay in filing application for leave to file appeal. The delay in preferring the aforesaid application is required to be condoned, in the interest of justice. Hence, this application is allowed. Hence, I pass the following order;

ORDER

(i) The delay in preferring an application seeking leave to file an appeal, against the judgment and order of acquittal dated 11th December, 2014 is condoned.

(ii) Criminal application No. 839 of 2015 is disposed of.

(iii) The application for leave to file an appeal may be placed for admission on 9th February, 2018.

[P. D. NAIK , J.]