

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

**CRIMINAL APPLICATION NO.625 OF 2017
ALONGWITH
CRIMINAL APPLICATION NO. 1380 OF 2018**

Mr. Chandrakant Tukaram Kamble Applicants
& Another
Vs.

Santosh Vilas Shinde & Ors. Respondents

Mr. Bharat Vaishnawa I/by M/s Bharat Vaishnawa & Co. for the applicants.

Mr. Shashank C. Mangle for Respondent nos. 1 to 3.

Mr. Y.M. Nakhwa, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 30th January 2019

P.C.

1 Heard.

2 This is an application seeking condonation of delay in filing the appeal against the acquittal. The impugned judgment is dated 5th May 2015. There is a delay of 838 days in filing the appeal.

3 It appears from the records that vide letter dated 4th April 2016, a proposal was forwarded alongwith the opinion of the

Additional Public Prosecutor, Kolhapur to the remembrance of legal affairs that “this is a fit case to file an appeal in the Hon'ble High Court”. It is unfortunate that the Law and Judiciary Department has chosen not to recommend filing of an appeal challenging the judgment and order dated 5th May 2015.

4 Learned counsel for the respondent nos. 1 to 3 submits that the complainant has not offered/demonstrated any plausible explanation for the undue, inordinate delay in filing an application seeking leave to appeal. Learned counsel for the applicants submits that the complainant has relied upon the State Government to file an appeal. They were informed by the Government Pleader at Kolhapur that an opinion has been given for challenging the judgment and order dated 5th May 2015 and therefore the complainant had not taken any concrete steps to file an application seeking leave to appeal. It is also submitted that after the unfortunate demise of the daughter of the complainant in her matrimonial house in suspicious circumstances, the health of the applicants had deteriorated and all these factors have

caused delay in filing an application seeking leave to appeal. Learned counsel for the applicants humbly submits that they will delete last four lines of paragraph 6 of the application seeking condonation of delay. Deletion to be carried out forthwith.

5 Perused the judgment. It appears that there is no discussion in respect of cause of death, the prelude to the death of the victim. It is in these circumstances that the delay deserves to be condoned in the interest of justice. In fact, this Court is of the opinion that justice has to be done to the victim also and therefore the delay in filing this application seeking leave to appeal deserves to be condoned in the interest of justice.

6 The application is allowed in terms of prayer clause (a) and stands disposed of.

7 Criminal Application No. 1380 of 2018 is also allowed.

(Smt. Sadhana S. Jadhav, J.)