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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.656 OF 2018

Shri Shashikant Shamrao Patil ... Applicant
Vs.
The State of Maharashtra and Anr. ... Respondents

Mr. Umesh R. Mankapure for the Applicant.
Mrs. M.H. Mhatre, APP for the Respondent – State.
Mr. Tejas Hilage for the Respondent No.2.

CORAM : B.P. DHARMADHIKARI AND
MRS. SWAPNA S. JOSHI, JJ.

DATE : 29th JULY 2019.

P.C. :

1 Original complainant who happens to be brother of deceased has filed the present application for condoning delay in preferring appeal under section 372 of Cr.P.C. Delay as calculated is of 6 days.

2 The judgment and order of acquittal is passed on 6th September 2018 and the appeal against it with present application has been filed on 27th November 2018.

3 The learned counsel appearing for the applicant states that various judgments relied upon by him permit filing of such appeal within reasonable period and most of the High Courts have construed 90 days to be reasonable period.

4 The learned counsel appearing for Respondent No.2 accused does not dispute the judgments or logic therein. He invites attention to reason for condonation of delay. According to him, ignorance of law as pleaded cannot constitute valid reason for such condonation. He therefore prays for dismissal of proceedings.

5 The learned APP for State submits that delay appears to have been calculated by treating 60 days as period of limitation.

6 We have perused various judgments which are produced before us in compilation. The Division Bench of this Court and various High Courts have found that in absence of express provision in Limitation Act or anywhere else stipulating a particular period as period of limitation specifically for the purposes of section 372, victim has to exercise the right within reasonable time. Connotation of said requirement has then to be looked into with the help of section 378 of Cr.P.C. The view is reasonable period may vary from 60 to 90 days. A single Judge of this High Court has also found it difficult to construe section 372 of Cr.P.C. independent of reliance placed upon right of State Government to file appeal against acquittal.

7 In present facts when the appeal has been filed within 90 days and the delay as claimed is only of 6 days, we do not find it necessary to examine all these facets. The application for condonation of delay cannot be said to be filed beyond reasonable time and Respondent No.2 accused has also not filed any reply affidavit pointing out why the period

of 6 days cannot be accepted. No development which has taken place after expiry of period of 60 days has been placed on record to demonstrate that situation has become irreversible. We therefore find that appeal under section 372 Cr.P.C has been tendered within reasonable time.

8 We accordingly allow application and direct the Registry to register the appeal.

(MRS. SWAPNA S. JOSHI, J.)

(B.P. DHARMADHIKARI, J.)