

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

CRIMINAL WRIT PETITION NO. 606 OF 2018

Mr. Abdul Gafoor

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

Adv. A.D. Chandra Bose with Adv. Shrilekha i/b. Adv. Mohan Devkale for petitioner.

Mrs. M.R. Tidke, APP for Respondent/State.

**CORAM : S. S. SHINDE, J
DATE : 19th July 2019**

P.C.

1. This petition takes an exception to the order dated 2nd January 2018 passed by the Court of Judicial Magistrate First Class, Panvel Court at Panvel, District Raigad.

2. Learned counsel appearing for the petitioner invites attention of this Court to the application filed for condonation of delay and also to the grounds taken in the petition and submits that, in spite of sufficient cause disclosed before the Trial Court, concerned Court has not considered the prayer of the petitioner for condonation of delay. It is submitted that the complainant will suffer irreparable loss in case the complaint is not allowed to present the complaint/proceedings before the Trial Court. In support of his contention that the concerned Court has jurisdiction to entertain the prayer for condonation of delay, and in appropriate cases can condoned the delay has

placed reliance upon the two reported judgments of the Bombay High Court in the case of Shri Harneet Kaur Vs. Paramound Buildwell Constructions Pvt. Ltd. & Ors¹ and The Bicholim Urban Co-operative Bank Ltd. Vs. Shri. Ahamed Actar Shaikh & Anr².

3. I have carefully perused the grounds taken in the petition and also the averments in the complaint below Exhibit-1 which is filed for condonation of delay. I am satisfied that no sufficient cause was disclosed before the concerned Court so as to condoned the delay. The Trial Court in Para 3 and 4 have given detailed reasons for not condoning the delay of more than 2 years 11 months in presenting the complaint. An afore mentioned para 3 and 4 reads as under:-

“3. Perused the record, it appears the application is supported with the affidavit of the applicant. It is the contention of the applicant that the complaint was returned to him on 12-12-2004. Thereafter he had immediately tried to contact to some good Advocate through his friend Anil Nakhala. He has also sent the relevant papers at Kolkata. However, it appears that the applicant has not mentioned the specific date on which he has sent the papers. Moreover, he has not revealed the name of Advocate to whom he tried to contact. It is submitted on behalf of the applicant that due to illness of his friend Anil, some delay was caused. If the statement of applicant is accepted as true for the sake of argument, then if the applicant came to know this fact about the illness of his friend, he could have contacted with his friend to return the papers or to submit to the lawyer of Kolkata. Therefore, the reason given by the applicant isn't sufficient and cogent. The another reasons given by the

¹ 2017 ALL MR (Cri) 5300

² 2017 ALL MR (Cri) 5215

applicant that he had entrusted the file to Lawyer of Navi Mumbai, Mr. Sharma, it is pertinent to note that the applicant has not given full name of the Advocate or file any documents in support of his contention.

4. Therefore considering the overall reasons mentioned in the application by the applicant for causing such a long delay of 2 years 10 months and 11 days are not cogent and sufficient. It appears that the applicant has acted in negligence and has not taken proper steps to resubmit the complaint in time and comply the direction of this court. The conduct of the applicant himself appears to be blameworthy. Therefore, the reasons and grounds mentioned by the applicant are not sufficient and delay is not properly explained, hence the application is devoid of merits and liable to be rejected. Hence, I pass the following order.

ORDER

The application stands rejected”.

4. It is also observed by the Trial Court that, the conduct of the applicant himself appears to be blameworthy. In that view of the matter no case is made out to entertain this petition. Hence, the writ petition stands rejected.

[S. S. SHINDE , J]