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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPLICATION NO.122 OF 2017

Salim Abdul Rahim Sutar                      ...Applicant  
vs.  
State of Maharashtra & Ors.              ...Respondents

Mr.Kalpesh Patil for the applicant  
Mr.Ajay Patil, APP for the respondent No.1  
Mr.Abhay A.Jadhavan I/b Mr.Sachin K. Hande for  
respondent Nos.2 to 8.

CORAM : A.S.OKA, &  
          A.S.GADKARI, JJ.  
DATE : JANUARY 25, 2019

P.C.:

1     Heard the learned counsel for the applicant, the learned APP for the first respondent and the learned counsel for the second to eighth respondents. The learned counsel for the second to eighth respondents opposes this application on the ground that there is a long delay of one year and 48 days.

2     Against the impugned Judgment and Order dated 6<sup>th</sup> October 2015, the present applicant who is the victim filed a criminal appeal invoking the proviso to section 327 of the Code of Criminal Procedure, 1973. As at the relevant time the Apex Court had taken a view that the victim will have to also apply for leave to prefer an appeal, by order

dated 5<sup>th</sup> January 2017, the Criminal Appeal preferred by the applicant was permitted to be withdrawn by the Division Bench of this Court with liberty to file an application for leave to prefer appeal.

3 On the basis of the said liberty, application for leave to prefer appeal along with delay condonation application have been filed on 22<sup>nd</sup> February 2017.

4 Hence, sufficient cause is made out for condonation of delay. Accordingly, Rule is made absolute in terms of prayer clause (a).

5 In view of the decision of the Apex Court in the case of Mallikarjun Kodagali (Dead) through Legal Representatives State of Karnataka & others<sup>1</sup>, we direct the Registry to number the application for leave as Criminal Appeal.

6 Criminal Appeal shall be listed under the caption of 'Fresh Admission' on 20<sup>th</sup> February 2019.

(A.S.GADKARI,J.)

(A.S.OKA,J.)

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1 2018 SCC online SC 1941