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

CRIMINAL APPLICATION No. 158 OF 2017

Sanjeet Harishankar Jaiswar

...Applicant

Vs.

Jitu @ Jitendra Dudhnath Tiwari
and Anr.

...Respondents

Mr. Gautam Pyarelal for Applicant

Mr. Siddesh Samel a/w. Mr. Kiran Varma for Respondent No.1

Mr. S.S. Pednekar – APP for the State

CORAM : SMT.SADHANA S. JADHAV, J.

DATE : FEBRUARY 26, 2019

P.C.:

1. This is an application seeking condonation of delay in filing an application seeking leave to appeal challenging the acquittal of Respondent No.1 under section 307 of the Indian Penal Code. The applicant happens to be a student. There is a delay of 50 days. In view of the grounds raised in paragraphs 6 (b) and (c), the delay deserves to be condoned in the interest of justice.

2. The learned counsel for Respondent No.1 has vehemently opposed to grant the application and has submitted that in fact, this cannot be treated as an application seeking leave to appeal challenging the acquittal for the simple reason that Respondent No.1 has been acquitted of the offence under section 307 of the Indian Penal Code but is convicted for the offence punishable under section 324 of the IPC and he has undergone the sentence and has been enlarged on probation.

3. Be that as it may. The learned counsel for the Applicant

submits that the Applicant had sustained serious injuries and, therefore, the conviction ought to have been under section 307 of IPC.

4. For the reasons assigned in the application, the application deserves to be allowed.

5. The delay of 50 days is condoned. The application is allowed in terms of prayer clause (a) and stands disposed of.

[SMT.SADHANA S. JADHAV, J.]

V.A. Tikam