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

CRIMINAL APPLICATION No. 175 OF 2018

Yusuf Tayeb Jummani

...Applicant

Vs.

Sunil Madhane and Anr.

...Respondents

Ms. Megha Bajoria i/b. Mr. Kuldeep S. Patil for Applicant

Mr. Avanti Inamdar for Respondent No.1

Mr. Y.M. Nakhwa -APP

CORAM : SMT.SADHANA S. JADHAV, J.

DATE : FEBRUARY 22, 2019

P.C.:

1. Heard. This is an application seeking condonation of delay in filing an application seeking leave to appeal, challenging the judgment and order passed by the J.M.F.C., Miraj in Summary Criminal Case No.235 of 2011 by which Respondent No.1 has been acquitted of the offence punishable under section 138 of the Negotiable Instruments Act. The delay is of 38 days.

2. For the reasons assigned in paragraph 7 and 8 of the application, the delay needs to be condoned in the interest of justice.

3. The learned counsel for Respondent No.1 vehemently opposes the grant of condonation of delay, contending therein that the dismissal of the complaint for non-prosecution as contemplated under section 256 of Cr.P.C. would amount to acquittal and the acquittal stands confirmed.

4. However, in the interest of justice, the delay needs to be condoned. Hence, application is allowed in terms of prayer clause (a) and stand disposed of.

[SMT.SADHANA S. JADHAV, J.]

V.A. Tikam