

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 601 OF 2019**

Jayant Laxmikant Chaupane	...Applicant
Versus	
Sandeep Patil & Anr.	...Respondents

Mr. Amit Singh i/b Vivek Patil & Associates for the Applicant

Mr. Ranvir Shekhawat i/b M/s. Raj Legal for the Respondent No. 1

Mr. A. R. Patil, A.P.P for the Respondent No.2-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 27th NOVEMBER 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant has impugned the order dated 10th April 2019 passed in Miscellaneous Application No. 557/2019 (delay condonation) filed in Criminal Revision Application, inasmuch as, the learned Sessions Court rejected the applicant's application for condonation of delay caused in filing the aforesaid Revision Application.

3 Perused the papers. The respondent No. 1 lodged a complaint as against the applicant in the Court of the learned Metropolitan Magistrate, 64th Court, Esplanade, Mumbai, alleging offences punishable under

Sections 499, 500 and 501 of the Indian Penal Code. The said case was numbered as complaint No. 01/SS/2018. The learned Magistrate was pleased to issue process vide order dated 19th April 2018 as against the applicant. According to the learned counsel for the applicant, the applicant received summons on 20th June 2018 i.e. after 61 days from the date of passing of the order of issue process. He submits that it is thereafter that the applicant started collecting documents and approached Advocates, resulting in a delay of 160 days in filing the Revision Application. Learned counsel for the applicant submits that the applicant filed an application seeking condonation of delay of 160 days caused in filing the Revision Application, which was rejected by the learned Sessions Judge.

4 Learned counsel for the respondent No. 1 disputes the statement that summons was received by the applicant in June 2018. Learned counsel relies on page 79 of the application to show that summons were delivered on the applicant on 11th May 2018. According to the learned counsel for the applicant, the said document on page 79 does not show that the said summons was delivered to the applicant.

5 A perusal of the application for condonation of delay shows that the applicant has, in detail, from para 2 to para 4, set out the reasons for

filing the Revision Application belatedly i.e. after 160 days. It appears that the reasons are plausible and are sufficient to condone the delay caused in filing the Revision Application. It appears that the delay was neither deliberate nor intentional and as such learned Sessions Judge ought to have condoned the delay filed in Revision Application.

6 For the reasons set out, the aforesaid application is allowed and the impugned order dated 10th April 2019 passed by the learned Sessions Judge below Miscellaneous Application No. 557/2019 in Criminal Revision Application, is quashed and set-aside. The delay of 160 days caused in filing the aforesaid Revision Application is condoned, subject to the applicant paying cost of Rs. 15,000/- to the Tata Cancer Institute for Children. The said cost to be paid on or before 16th December 2019.

7 The Registry of the Sessions Court to register the Revision Application and the learned Sessions Judge to proceed with the said Revision Application on its own merits. All contentions of all parties are kept open.

8 At this stage, learned counsel for the applicant states that the next date in the trial Court is 29th November 2019 and the learned trial

Judge is insisting on proceeding with the said case. Learned counsel for the respondent No. 1 states that he will not proceed with the case and seek adjournment on 29th November 2019.

9 The applicant to appear before the learned Sessions Judge on 16th December 2019, after which, the learned Judge to give dates convenient to him for hearing the Revision Application. The same to be decided expeditiously.

10 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.