

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

CRIMINAL APPLICATION NO. 633 OF 2019

C.Venkatachalapathy,
Aged: 40 years,
Residing at 228/1, 3rd Main
OMBR Layout, Chikkabanasa Vadi,
Bangalore : 560 043

...Applicant

Versus

1. N.A.Raghavendra,
Aged: 42 years,
Residing at House No. #610,
Behind Government Hospital,
Nidaghatta Post, Kadur Talk,
Chimagalore District,
Karnataka – 577 548.

2. The State of Maharashtra

...Respondents

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Mr.Ashok M. Bhatia for the Applicant.
Mr.S.R.Mishra for Respondent No.1.
Mr.A.R.Patil, APP for Respondent No.2-State.

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**CORAM : S.S.SHINDE J.
DATE : 04 JUNE, 2019**

ORAL JUDGMENT

1. Rule. Rule is made returnable and heard forthwith with the consent of the parties.

2. After the order passed by the Additional Sessions Judge, Dindoshi Court, Mumbai on 5th March,2018 in Criminal Misc. Application No. 134 of 2017 in Criminal Appeal (C.N.R. No. MHCC05-002228-2017), which is impugned in this Application, the applicant and respondent No.1 herein have arrived at amicable settlement. Respondent No.1 has filed an affidavit. Parties are identified by respective advocates appearing for them.

3. In the light of the settlement arrived at between the applicant and respondent No.1, it is prayed that the order dated 5th March,2018 referred hereinabove passed by the Sessions Court, Dindoshi, Mumbai may be quashed and set aside and also conviction as ordered by the Metropolitan Magistrate, 44th Court, Andheri, Mumbai in C.C.No.4400371/SS/2012 may be set aside.

4. Learned Counsel appearing for respondent No.1, on instructions, submits that respondent No.1 has no objection to quash and set aside the order dated 5th March,2018 passed by the Additional Sessions Judge,

Dindoshi Court, Mumbai in Criminal Misc. Application No. 134 of 2017 in Criminal Appeal (C.N.R. No. MHCC05-002228-2017) and also to set aside the conviction of the applicant as ordered by the Metropolitan Magistrate, 44th Court, Andheri, Mumbai in C.C.No.4400371/SS/2012.

5. It appears that the applicant and respondent No.1 have amicably settled the dispute and to that effect, affidavit has been filed by respondent No.1. It is also informed across the bar that a Demand Draft of Rs.13,00,000/- has been handed over by the applicant's wife to respondent No.1. Upon perusal of the order passed by the Sessions Court, Dindoshi, Mumbai, it appears that the said Court has not properly considered the prayer of the applicant to condone the delay in filing appeal. Apart from non-consideration of the grounds raised in the Application for condonation of delay filed by the applicant i.e., accused, in view of the subsequent event of amicable settlement being arrived at between the applicant and respondent No.1, this Court is of the opinion that, an end's of justice would be met in case the Application is allowed in terms of prayer clause (a) and Appeal filed by the applicant is restored to its original file.

6. Accordingly, the present Application is allowed in terms of prayer clause (a). Resultantly, the delay in filing the Appeal stands condoned for the aforesaid reasons. The Registry of the Sessions Court, Dindoshi, Mumbai is directed to forthwith number the Appeal filed by the applicant and place the said Appeal for hearing immediately before the Sessions Court, Dindoshi, Mumbai. The Sessions Court keeping in view the provisions of Section 147 of the Negotiable Instruments Act, 1881 and also the settlement arrived at between the parties, shall dispose of the said Appeal as expeditiously as possible, however on or before 10th June, 2019.

7. The Application is partly allowed. Rule is made absolute on above terms.

8. Criminal Application stands disposed of accordingly.

9. The Registry shall forthwith send a copy of this order to the Sessions Court, Dindoshi, Mumbai.

10. Parties to appear before the Sessions Court, Dindoshi, Mumbai on 6th June, 2019.

11. Parties to act upon an authenticated copy of this order.

(S.S.SHINDE, J.)