

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

WRIT PETITION No. 3708 OF 2018

Venkatesan Venkataramansinganallur & Ors. ...Petitioners

Versus

Bright Point India Private Limited & Anr. ...Respondents

**WITH
WRIT PETITION No. 3709 OF 2018**

Venkatesan Venkataramansinganallur & Ors. ...Petitioners

Versus

Ingram Micro India Private Limited & Anr. ...Respondents

.....

Mr.Dinesh Tiwari a/w. Mr.Mikhail Dey i/b. Dinesh Tiwari and Associates
for the Petitioners.

Mr.Sagar Wagle a/w. Ms.Sayali Puri for Respondent No.1 in both the
Petitions.

Mrs. Veera Shinde, APP for Respondent No.2-State.

.....

CORAM: MRS.MRIDULA BHATKAR, J.

DATED : 14 JANUARY 2019

P.C.:

1. Upon urgent mentioning, taken on production board.
2. These Petitions are directed against the orders dated 4th August, 2018 passed by the learned Additional Sessions Judge, Greater Mumbai, thereby rejecting Misc. Application No. 1101 and 2018 and Misc. Application No. 1102 of 2018 respectively.

3. The learned counsel for the petitioners/accused has submitted that the petitioners have moved Revision Applications in two cases against the orders of the learned Magistrates for issuance of process under section 138 read with 141 of the Negotiable Instrument Act. However, in one matter, there is a delay of 27 days and another Revision Application was filed 88 days after the period of revision was over. He has further submitted that a talk of settlement was going on between the promoters of the accused company and the complainant's company and, therefore, the petitioners/accused were hopeful for some via media will be found. He has further submitted that the petitioners have waited for a long time and due to inadvertence, delay is caused. He has further submitted that the delay is not intentional and hence, it is to be condoned.

4. The learned counsel for respondent No.1 while opposing these Petitions, has submitted that no sufficient cause is made out by the petitioners/accused. The contradictory statements are made in the Applications for condonation of delay and for this reason, the complainant i.e., respondent No.1 in both the Petitions should not suffer. The orders passed by the learned Additional Sessions Judge are legal and they are to be maintained.

5. Heard submissions of the learned counsel for both the sides. Perused impugned orders. The learned Sessions Judge has stated in his order that, hyper-technical view should not be taken by the Court, however, sufficient reason must be made out. The learned Sessions Judge has observed that no tangible evidence is produced in support of the reasons mentioned in the Applications.

6. Perused Applications for condonation of delay filed by the petitioners/accused. The reason of talk settlement is stated in the said Applications. It appears that the petitioners/accused were hopeful about some positive outcome out of the talk, however, it was not materialized. Thus, delay can be condoned with cost.

7. In view of above, the delay of 88 days and 27 days in filing the Revision Applications is condoned, subject to payment of cost of Rs.15,000/- in each case on or before 28th January, 2019 to the complainant i.e., respondent No.1 in both the Petitions before the Sessions Court.

8. With this, both the Writ Petitions are disposed of.

9. Liberty is granted to the learned counsel for respondent No.1 to file Vakalatnama.

(MRIDULA BHATKAR, J.)