

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 612 OF 2016
WITH
CRIMINAL APPLICATION ST. NO. 114 OF 2019

Central Bureau of Investigation ..Applicant.

v/s.

Ajay Namdeo Sansare & ors. ..Respondents.

Ms. Ameeta Kuttikrishnan, advocate for applicant.

Mr. L.N. Karde i/b. Mr. K.H. Kamble, advocate for respondent No. 2.

Mr. Sharad Malik, advocate for respondent No. 1.

Mr. Y.M. Nakhwa, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : OCTOBER 17, 2019.

P. C. :

1 Heard respective parties. This is an application seeking condonation of delay in filing an application challenging the Judgment and Order passed by Special Judge, CBI, Greater Bombay in Special CBI Case No. 7 of 2008. The delay is of 2 years and 142 days.

2 The learned Counsel for the respondent Nos. 1 and 2 have

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vehemently submitted that there is no plausible explanation for the inordinate delay in filing an application seeking leave to appeal. That the officers of the department had kept the file pending for no reasons as per the application and the same has caused delay.

3 In fact, it appears that the file had to be approved from one department to another including the DIG, CBI, ACB, Mumbai, Zonal office after seeking opinion from Law and Judiciary and then to Director (Vigilance Department of personal and training.

4 Learned Counsel for the respondent No. 2 has placed reliance upon the judgment of the Apex Court in the case of **Postmaster General and ors. v/s. Living Media India Limited and Anr. Reported in (2012) 3 SCC 563**. The Hon'ble Apex Court in the facts of the case after referring to the earlier Judgment in the case of **Pundlik Jalam Patil (dead) by LRS. vs. Executive Engineer, Jalgaon Medium Project and Another, (2008) 17 SC 448** has held that -

“Public interest undoubtedly is a paramount consideration in exercising the courts' discretion wherever conferred upon it by the relevant statutes. Pursuing stale claims and

multiplicity of proceedings in no manner subserves public interest.

5 The learned Counsel for the applicant has placed reliance upon the Judgment of the Supreme Court in the case of **State of Haryana v/s. Chandra Mani and others reported in (1996) 3 SCC 132**. The Hon'ble Apex Court has observed thus :

“When the State is an applicant, praying for condonation of delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing-on-the-buck ethos, delay on the part of the State is less difficult to understand though more difficult to approve, but the State represents collective cause of the community. It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay intentional or otherwise - is a routine. Considerable delay of procedural red tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should,

therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay.”

6 In view of the rival submissions, this Court has considered the fact that the accused/respondent herein were charged for an offence punishable under section 120-B of the Indian Penal Code and under section 7 of Prevention of Corruption Act, 1988 r/w 34 of IPC and section 13(1)(d) r/w. 13(2) of the Prevention of Corruption Act, 1988. It is pertinent to note that in fact, accused No. 2 has been convicted by the Special Court and accused No. 1 and 3 have been acquitted of all the charges. In fact, this is a trap case. It appears that the accused No. 2 who was convicted was only a constable and the case of the prosecution was that in fact, the demand was made by the accused Nos. 1 and 3. In view of this, the application seeking condonation of delay deserves to be allowed in the interest of justice.

7 The application is allowed in terms of prayer clause (a) and stands disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]

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