

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

**CRIMINAL APPLICATION NO.671 OF 2016
(FOR DELAY)**

**IN
CRIMINAL APPLICATION NO. 476 OF 2019
(FOR LEAVE TO FILE APPEAL)**

Shri. Chetan Manohar Gaikwad Applicant

Vs.

Shri. Suryakant Jadhav & Anr. Respondents

Mr. Vikas Kolekar, Advocate for Applicant.

Mr. Tejas Pawar a/w Mr. Bhushan Walimbe for Respondent no.1

Mr. A.A. Palkar, APP for State

Coram : NITIN W. SAMBRE, J.

Date : 20th November 2019

P.C.:

1. A delay of 161 days caused in filing the present appeal.

The prayer is opposed on the ground that no sufficient cause in support of the delay condonation is disclosed.

2. Considering the cause cited, delay is condoned. Application stands allowed.

3. Heard learned counsel for the applicant. A complaint under Section 138 of Negotiable Instruments Act came to be disposed of for want of presence of the complainant resulting into acquittal of the accused.

4. Learned counsel for the applicant assures that if a chance is given, the applicant shall not seek any adjournment and from day one, shall adduce evidence. He further undertakes to co-operate the learned Magistrate Court in expeditious disposal of the complaint case.

5. The prayer is opposed on the ground that the conduct of the applicant is not bonafide.

6. Be that at it may, by way of last chance in the interest of justice, in my opinion the applicant-complainant deserves to be given a chance to demonstrate his case before the learned Magistrate. That being so, the order of disposal of the complaint impugned in the present appeal dated 7th April, 2016 is hereby set aside.

7. The complaint stands restored to file of the Judicial Magistrate First Class, Palus.

8. Parties hereby agree that they shall appear before the Court of Magistrate, Palus on 9th December 2019 and shall co-operate the learned Magistrate in expeditious disposal of the complaint case.

9. The applicant to deposit costs of Rs.10,000/- before the Court of Judicial Magistrate First Class, Palus to which the respondent no. 1 will be entitled to withdraw the amount. The costs be deposited on the date of appearance.

10. Application stands partly allowed.

(NITIN W. SAMBRE, J.)

Note : Corrected as per speaking to minutes of the order dated 10th December, 2019.