

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

CRIMINAL APPLICATION NO. 1425 OF 2018

Maya R. Bhatt and Ors.

...Applicants

Versus

The State of Maharashtra and Anr.

...Respondents

Mrs. Sonal Parab a/w. Mr. P.K. Sanghrajka i/by. Rajeev Sawant and
Asso. for the Applicants.

Mr. Vinod Chate, APP for Respondent – State.

Mr. Subhash S. More for the Respondent No. 2.

CORAM : S.S. SHINDE, J.

DATE : 23rd AUGUST 2019

P.C.:

1. Being aggrieved by the impugned order dated 19th October, 2018 passed by the Sessions Court in Criminal Misc. Application No. 613 of 2018 this application is filed.

2. Learned counsel appearing for the applicant submits that, the dates for application of certified copy and receipt of certified copy of the order passed by the Magistrate were incorrectly mentioned in the application filed by the applicant for condonation of delay in filing the Criminal Revision Application of 2017. It is submitted that, another Criminal Revision Application No. 155 of 2018, arising out of the order

dated 31 January 2018 passed by the Magistrate is admitted by the Sessions Court and is pending for final hearing. It is submitted that, the Revision filed by the applicants is also arising out of the aforesaid order passed by the Magistrate. Learned counsel further submits that, the applicant Nos. 1, 3, 4 and 5 are senior citizen and suffering from various ailments. They were unable to seek appropriate legal advise for filing appropriate proceeding against the impugned order dated 13.12.2016 passed by the Magistrate and in the said process time was consumed. It is fairly stated that, the applicants applied for certified copy on 4th October, 2017 and after receipt of certified copy applicants filed the Revision Application before the Sessions Court. It is submitted that since another Criminal Revision Application No. 155 of 2018 is filed by the co-accused is already pending for consideration no prejudice would be caused to the contesting Respondent in case delay is condoned in filing the Revision. It is further submitted that, Criminal Revision Application No. 155 of 2018 and the Revision filed by the present application can be heard together. It is submitted that, the delay is neither intentional nor deliberate hence application may be allowed.

3. Learned counsel appearing for the original Complainant – Respondent No. 2 invites attention of this Court to the averments in the application for condonation of delay which was filed before the Sessions Court bearing Criminal Misc. Application No. 613 of 2018 and submits that, delay has not been properly explained. He further submits that, an incorrect dates have been mentioned in the application for condonation of delay before the Sessions Court, and the said Court was mislead by the applicant. It is submitted that applicant no. 1 is Advocate by profession, therefore, the ground taken in the application that, to seek appropriate legal advise time was consumed cannot be accepted. Learned counsel further submits that, there is inordinate delay of 350 days in filing the Criminal Revision and same is not properly explained, and therefore he prays that application may be rejected.

4. Heard learned counsel appearing for the parties at length. With their able assistance perused the reasons assigned by the Sessions Court and also the contents of the application which was filed by the present applicants before the Sessions Court for condonation of delay, so also the averments in the present application. It clearly appears that, the correct dates for applying for the certified copy of the order

passed by the Magistrate was not stated before the Sessions Court and as a result there was no correct factual position placed before the Sessions Court. It is true that the delay is not specifically explained however, it is admitted position that the Criminal Revision Application No. 155 of 2018 which was filed by the co-accused is entertained by the Sessions Court and same is pending for final hearing. In that view of the matter and since the Revision filed by the Co-accused is already admitted and pending for final hearing, ends of justice would be met in case the delay in filing the Revision is condoned by imposing cost upon the applicants. Accordingly, following order:

:ORDER:

1. The impugned order passed by the Sessions Court dated 19.10.2018 in Criminal Misc. Application No. 613 of 2018 is quashed and set aside.
2. Delay in filing the Criminal Revision Application is condoned subject to paying cost of Rs. 10,000 (Ten Thousand Only) to the second Respondent within 1 week from today.
3. Since the delay is condoned the Registry of the Sessions

Court is directed to Register Criminal Revision. Said Revision be heard with Criminal Revision Application No. 155 of 2018.

4. The Sessions Court shall endeavor to disposed of both the Revisions as expeditiously as possible however, within 10 weeks from today.

(S.S. SHINDE, J.)