

Vidya Amin.

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

CRIMINAL WRIT PETITION NO. 5779 OF 2018

Zubin Harbin Jhaveri & Anr. ... Petitioners
VS.
The State of Maharashtra & Anr. ... Respondents

Ms. Sonal Harbin Jhaveri, petitioner No. 2 appears in person.
Mr. A.R. Patil, APP for the respondent/State.

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: 4th January, 2019.**

P.C. :

In this Writ Petition, the order dated 11th December, 2018 passed by the learned Additional Sessions Judge, Mumbai in Criminal Revision Application No. 932 of 2017 is challenged. The petitioners are facing trial before the learned Metropolitan Magistrate wherein the process is issued under section 500 of Indian Penal Code on 14th August, 2014. The said process is challenged by filing Criminal Revision Application in the year 2017. During the pendency of the Criminal Revision Application, the learned Additional Sessions Judge, Greater Mumbai passed the order of stay on 5th December, 2017 in Miscellaneous Application No. 1747 of 2017 and the Revision is admitted. Thereafter the respondents approached the Court and raised written objection

that while admitting the Revision, the issue of delay was not dealt with and it is necessary to deal with the issue of maintainability on the ground of limitation. The learned Sessions Judge accepted the said contentions of the respondents and passed the order accordingly on 11th December, 2018. Hence, this Writ Petition.

2. The petitioner No. 2, who appears party-in-person, has submitted when the stay was granted and Revision was admitted, the other party has raised the objection pointing out that there is inordinate delay of 900 days in filing the Revision. Despite this objection, the learned Sessions Judge has granted stay and admitted the Revision and hence it is to be considered that the issue of limitation is decided and there was no need of entertaining the Application and pass order dated 11th December, 2018 and hence, it is to be set aside.

3. Perused the orders dated 5th December, 2017 and 11th December, 2018. In the order dated 5th December, 2017, the learned Sessions Judge has mentioned the objection raised by respondent No. 2 about unexplained delay of 900 days in filing the Revision. However, the learned Additional Sessions Judge did not

deal with the objection. He kept the issue of delay untouched. When such issue is raised and kept untouched, it cannot be considered that the issue is decided but the issue remains undecided. Hence, the order dated 11th December, 2018 passed by the learned Sessions Judge is correct. No illegality is found in the order. Writ Petition is dismissed summarily. The learned Sessions Judge to decide the issue. Admission of Revision shall not come in the way.

(MRIDULA BHATKAR, J.)