

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 320 OF 2019
IN
CRIMINAL APPLICATION (MAIN) NO. 208 OF 2019

STATE OF GOA, P.I., THR. COLVA
POLICE STATION, COLVA.,

... Applicant

Versus

METZI CARDOZO.,

... Respondent

Shri S.R. Rivankar, Public Prosecutor for the applicant.

Shri Rohan Dessai, Advocate for the respondent.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 31st January, 2020

P.C.:

Heard Shri S.R. Rivankar, learned Public Prosecutor for the applicant and Shri Rohan Dessai, learned Advocate for the respondent.

2. It was the contention of Shri Rivankar, learned Public Prosecutor that the appeal was filed against the judgment and order of the learned Special Judge under the provisions of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ['the said Act', for short] on 29/04/2019 which was apparently beyond the period of limitation of 90 days.

However, an application came to be filed seeking the condonation of delay on the premise that on account of

procedural hassles and administrative difficulties there was a delay of 14 days in filing such an application which remained to be filed due to oversight. This Court had ample powers in terms of the provisions of Section 14A of the said Act to condone the delay and hence the delay in filing the appeal had to be condoned.

3. Shri Rohan Dessai, learned Advocate opposed the application on the premise that the proviso to Section 14A amply barred the filing of the appeal and therefore the application for delay had to be dismissed.

4. i would consider the submissions of Shri S.R. Rivankar, learned Public Prosecutor and Shri Rohan Dessai, learned Advocate for the respondent and decide accordingly.

5. i have also considered Section 14A of the Act which reads with proviso thus :

"14A. Appeals - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.

(2) Notwithstanding anything contained in sub-section (3) of section 378 of the Code of Criminal Procedure, 1973 (2 of 1974),

an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.

(3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days:

Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days.

(4) Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal."

6. It is apparent that the impugned judgment and order came to be passed by the Special Judge on 09/01/2019 and the application for a certified copy came to be filed on the very same day. The copy of judgment and order came to be delivered on 16/01/2019 and thereafter the appeal came to be filed only on 29/01/2019 i.e. after the delay of about 14 days of the period reckoned under Section 14A of the said Act. The application for condonation of delay spelt out the grounds why there was a delay

in filing the appeal primarily on account of obtaining the opinion of the Director of Prosecution and the rigmarole of passing through various channels of the Government and finally the file was allotted by the learned Advocate General to the office of the Public Prosecutor. The delay in that regard has been sufficiently accounted on behalf of the State and the objection on behalf of the respondent does not stand the test of scrutiny even on a reading and understanding Section 14A and the proviso thereto which empowers this Court to grant enlargement of time to file an appeal.

7. In view thereof, the application for the condonation of delay is allowed. The application accordingly stands disposed off.

8. The learned Public Prosecutor had otherwise made out a case to challenge the impugned judgment and order of the learned Special Judge and in view thereof, the leave to appeal is granted. Registry to register the appeal.

NUTAN D. SARDESSAI, J.