

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.167 OF 2019
IN
REVISION APPLICATION [STAMP] NO.198 OF 2019**

Pratap Jaganath Mohite] Applicant
Vs.
The State of Maharashtra and Ors.] Respondents

.....

Mr. Prosper D'Souza, for Applicant.
Ms. Jyoti Lohokare, A.P.P, for Respondent No.1-State.
Mr. Mahindra Deshmukh, for Respondents No.2 to 6.

.....

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 18th DECEMBER, 2020
(Through Video Conferencing)

P.C:

1. This is an application for condonation of delay of 469 days which has occurred in preferring a revision against the concurrent findings of acquittal recorded not only by the Court of J.M.F.C Kadegaon acquitting respondents No.2 to 6 of the offence punishable under sections 143, 147, 148, 324, 379, 504 r/w section 149 of the Indian Penal Code but also by the Additional Sessions Judge, Sangli while dismissing Criminal Appeal No.79 of 2011 on 8th September, 2017.

2. Mr. D'Souza, learned Counsel appearing for the applicant in support of his prayer for condonation of delay submits that since the applicant could not afford to engage services of a lawyer, he applied for a legal aid in the office of High Court Legal Aid Services. As a matter of fact, the applicant came to know about dismissal of his appeal in the month of December, 2017 and, therefore, he immediately applied for certified copies which were supplied to him on 3rd January, 2018.

3. The Office of the Legal Aid Services asked the applicant to submit his income proof and other relevant documents as well as proof of he being a resident of Chennai. It took three month's time for making compliance of the said directions. Thereafter, an Advocate was appointed from the Panel of Legal Aid to represent the applicant in the Court. However, the learned Advocate appointed by the Legal Aid could not render his services and, therefore, another Advocate was appointed on 19th November, 2018.

4. Letter of appointment of the new Advocate and photo copies were supplied to the applicant on 30th November, 2018. The new Advocate sought all the necessary instructions from the applicant on 13th December, 2018 and she found that certain copies are essential to file the proceedings in the Court. Accordingly, the Advocate informed the same to the Legal Service Department of Sangli District Court. Thus, the delay which has occurred is not deliberate but *bona fide*. The learned Counsel has, therefore, prayed for condonation of the same.

5. Mr. Deshmukh, learned Counsel appearing for respondents No.2 to 6-original accused strongly opposed the prayer of the applicant for condonation of delay on the ground that the delay is inordinate and has not been properly explained. The applicant is in fact resident of Sangli and not Chennai. He could have, therefore, collected all the documents from his native place.

6. After hearing the learned Counsel for the applicant and the respondents, I am inclined to condone the delay, for, it would be just and proper to dispose of the revision application on merits. However, since there is delay of 469 days, due to which respondents No.2 to 6 were dragged in the Court, some cost needs to be imposed upon the applicant.

7. In the circumstances, the application for condonation of delay is allowed subject to costs of Rs.200/- each to the respondents No.2 to 6 to be paid within a period of 15 days from the date of passing of this order.

8. The application stands disposed of.

9. List the matter for compliance on 4th January, 2021.

10. This order will be digitally signed by the Personal Assistant of this Court. All concerned shall act on production by fax or e-mail of a digitally signed copy of this order.

[PRITHVIRAJ K. CHAVAN, J.]