

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2067 OF 2017

MAHALAXMI FABRICATORS AND ERECTORS)...PETITIONER

V/s.

M/S.FABRIKRAFT ENGINEERS

)...RESPONDENT

Mr.Vikrant Desai i/b. Mr.Suresh Kamble, Advocate for the
Petitioner.

Mr.R.M.Pethe, APP for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 28th JANUARY 2020

P.C. :

1 Heard the learned counsel appearing for the petitioner. He argued that sufficient cause was established for condonation of delay in filing the complaint under Section 138 of the Negotiable Instruments Act. The learned counsel further argued that reason of attending ailing mother-in-law was not pleaded by the original complainant in her application for condonation of delay, but still, on that reason, the delay is condoned and the mistake is repeated

by the learned Additional Sessions Judge while dismissing the revision petition filed by the petitioner/original accused.

2 Discretionary order of condonation of delay is challenged in this petition. It cannot be said that the discretion is exercised arbitrarily or perversely in the light of averments made in paragraph 1 of the application for condonation of delay. In that paragraph, the original complainant has categorically stated that she was ill, and as such, could not contact her advocate and to re-file the complaint by withdrawing the same from the court at Kolhapur. One of the reasons for condonation of delay is this and the revisional court has also considered this aspect for condonation of delay.

3 As the discretion has been exercised in just and proper manner, no case for interference is made out.

4 The petition is, therefore, dismissed.

(A. M. BADAR, J.)