

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 112 OF 2020

Nadeem Ibrahim Khedekar ... Applicant

V/s.

The State of Maharashtra and Anr ... Respondents

Mr. Atit Shirodkar I.by Mr.. Ritesh Ratnam for the applicant.

Ms. P.P. Shinde – APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J

DATED : 5th MARCH 2020.

PC. :

1. The applicant herein is convicted by the Judicial Magistrate First Class, Roha in Summary Criminal Case No. 638 of 2016 vide judgment and order dated 21st November 2018 for the offence punishable under section 138 of Negotiable Instruments Act and sentenced him to suffer simple imprisonment for four months and fine of Rs. 5,00,000/-in default, to suffer further simple imprisonment for one month.

2. Being aggrieved by the said judgment and order the applicant has approached the Court of Sessions at Mangaon-Raigad. The sentence was suspended vide order dated 9th April 2019. The applicant had also filed an application seeking condonation of delay in filing the appeal before the Sessions Court at Mangaon-Raigad. The delay is of 3 months and 20 days. The learned Additional Sessions Judge was not satisfied with the reasons assigned by the appellant and

hence the application seeking condonation of delay was rejected vide order dated 8th January 2020.

3. In view of this, the applicant herein has filed the present Revision Application. The applicant has surrendered before the Court of Judicial Magistrate First Class, Roha on 4th March 2020. The applicant is seeking suspension of sentence imposed by the Judicial Magistrate First Class, Roha.

4. The learned counsel for the applicant submits that in fact, the appeal has not been admitted and the appellant had no opportunity to argue the appeal on merits. Since the application seeking condonation of delay was rejected.

5. It is true that, it is incumbent upon the applicant to explain the delay of each day caused in filing any proceedings before the Court. However, a pedantic approach cannot be taken. The applicant has lost his chance of contesting the appeal on merits. It is in these circumstances that this Court is of the opinion that the applicant has a right to be heard before the Appellate Court on merits. Hence, the revision application deserves to be allowed at this stage. The matter is remanded to the Court of Sessions at Mangaon – Raigad.

6. The learned Sessions Judge shall hear the appeal on merits. The applicant shall remain present before the Additional Session Judge at Mangaon-Raigad on 15th April 2020. The appeal be decided on its own merits.

(SMT. SADHANA S. JADHAV, J)