

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO.5163 OF 2019**

**SHAUKAT ALI UMAR SHAIKH                      ... PETITIONER.**

**VERSUS**

**THE STATE OF MAHARASHTRA  
AND OTHERS                                              ... RESPONDENTS.**

Mr.J.M. Puranik, Advocate for the petitioner.

Mr.R.M.Pethe, APP for State.

**CORAM        : A. M. BADAR, J.**

**DATE            : 27TH FEBRUARY 2020.**

**P.C.:**

1.            By this petition, the petitioner is praying for quashing and setting aside order dated 24.9.2019 passed by the learned Additional Sessions Judge, Kalyan in criminal Miscellaneous Application No.19 of 2019 thereby rejecting the said application for condonation of delay of 312 days in preferring the revision petition against the Order dated

12.01.2018 passed by the learned 3<sup>rd</sup> Joint Civil Judge Junior Division and the Judicial Magistrate First Class, Ulhasnagar in private Criminal Complaint Case No.289 of 2003.

2. Heard learned counsel appearing for the petitioner/ original applicant. He argued that it is not the case that the petitioner/applicant had slept over his right or had came up with a false case. Therefore, the delay ought to have been condoned by the learned revisional court. He placed reliance on the following judgments.

**i) State Versus Ahmed Jaan, AIR(SC)2009 0 695.**

**ii) Chennai Metropolitan Water Supply and Sewerage Board Versus T.T.Murali Babu, AIR (SC) 2014 9 1141.**

**iii) Chandrakant s/o Laxman Kulbhaiyya and Another Versus The state of Maharashtra & Others, of Aurangabad Bench of Bombay High Court, in Second Appeal No.198 of 2013.**

**iv) Shakuntala Devi Versus Kuntal Kumari, AIR 1969 SC 575.**

3. My attention is drawn to the paragraph 17 of the judgment, in the matter of **Chandrakant Kulbhaiyya (supra)** wherein this court has held that,

17) As a general rule, the Appellate Court is not expected to interfere with the discretion exercised by the lower Court in allowing or rejecting the application for condonation of delay, unless it appears that the Court has not exercised at all the discretion or the Court has not exercised the power on aforesaid judicial principles.

4. I have considered the submissions so advanced and perused the material placed before me. Also perused the application for condonation of delay in preferring the revision petition.

5. It is averred in the application for condonation of delay that in January 2019 the applicant gained knowledge of the order sought to be impugned in the revision petition and

then he attempted to seek certified copy of the same. It is further averred that delay of 312 days is not intentional.

6. Order sought to be impugned in the revision petition is dated 12.01.2018. It was passed after hearing the Advocates appearing for all parties as seen from paragraph 2 of the said order. On this backdrop, it is held by the learned revisional court that in the entire application for condonation of delay, there is nothing to explain any cause for delay which shows any reasonable and sufficient cause.

7. Even on giving second thought, it is clear that no cause at all is stated in the application for condonation of delay for preferring the revision petition belatedly. Hence, it can not be said that the discretion exercised by the revisional court is arbitrary or capricious.

8. No case for consideration is made out in the extra

ordinary jurisdiction of this court. The petitioner, therefore, fails and accordingly, is dismissed.

**(A. M. BADAR, J.)**