

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****CRIMINAL REVISION APPLICATION NO. 105 OF 2021**

Sunil Balkrishna Mukadam

....Applicant.

Vs.

The State Of Maharashtra And Ors.

....Respondents.

Mr. Gaurav Parkar for the Applicant.

Smt. Rutuja Ambekar, APP for the Respondent No.1-State.

**CORAM : A. S. GADKARI, J.**

**DATE : 5<sup>th</sup> APRIL, 2021.**

**PC:-**

By the present Revision, the Applicant-Original Complainant has impugned Order dated 9<sup>th</sup> December, 2020 passed below Exh-1 in Criminal Miscellaneous Application No.396 of 2014 thereby, rejecting his Application for condonation of delay of 4 years, 2 months and 4 days in preferring the said Appeal.

2            Heard Mr. Parkar, learned Advocate for the Applicant and Smt. Ambekar, learned APP for the Respondent-State. Perused record annexed to the Application.

3            Record reveals that, on the basis of Complaint lodged by the Applicant, criminal law was set into motion by Revdanda Police Station, District Raigad and Crime bearing No.18 of 2009 under Sections 143, 149, 323 and 504 read with Section 34 of the Indian Penal Code was registered

against the Respondent Nos.2 to 10. After a full fledged trial, the Respondent Nos.2 to 10 were acquitted by the learned Judicial Magistrate, First Class, Alibag by its Judgment and Order dated 18<sup>th</sup> January, 2010.

The said Judgment passed by the Trial Court, is self-eloquent. The prosecution has failed to establish charges levelled against the Respondent Nos.2 to 10 beyond reasonable doubt. The evidence adduced by the prosecution was not cogent and plausible and therefore, the Trial Court was pleased to acquit the Respondent Nos.2 to 10 by its Judgment and Order dated 18<sup>th</sup> January, 2010.

4           The record further indicates that, the State thereafter preferred Criminal Appeal No.39 of 2010 in the Court of Assistant Sessions Judge, Raigad at Alibag on 9<sup>th</sup> April, 2010. The Appellate Court, by its Order dated 20<sup>th</sup> December, 2013 passed below Exh-1 was pleased to dismiss the said Appeal.

5           In this background, the Applicant Original-Complainant has filed an Appeal against acquittal of Respondent Nos.2 to 10 in the Court of Additional Sessions Judge, Raigad at Alibag with an Application for condonation of delay of 4 years, 2 months and 4 days. The prime ground taken for condonation of delay is that, the State pursued Appeal on behalf of the Applicant before a wrong forum and therefore, the benefit of the period from lodgment of said Appeal till its dismissal, be given in his favour.

Mr. Parkar, learned counsel for the Applicant with usual

fairness at his command, admitted that, the Applicant was also pursuing the State Appeal No.39 of 2010 before the Appellate Court and as the said Appeal was dismissed for want of appropriate jurisdiction, the Applicant has preferred the present Appeal with an Application for condonation of delay.

6           Perusal of Application for condonation of delay preferred by the Applicant would indicate that, except the aforestated ground for condonation no other reasonable and plausible explanation for such a colossal and inordinate delay is offered by him. It clearly appears to this Court that, as and by way of an afterthought and particularly in view of the fact that, the Appeal preferred by the State was dismissed by the earlier Appellate Court, the present Appeal with improvements has been filed before another Court with the present Application for condonation of delay. It further appears from the tenor of the present Application that, the Applicant Original-Complainant is desirous of initiating proceedings against the acquitted accused persons, till conviction against the Respondent Nos.2 to 10 is pronounced.

7           In view of above above, I find no merits in the present Application.

Revision Application is accordingly dismissed.

**(A.S. GADKARI, J.)**