

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

905 CRIMINAL APPLICATION NO.4207 OF 2019

**ANANDKUMAR S/O. BISANLAL WARMA
VERSUS
PARMESHWAR S/O. ZIPRU SONAWANE AND ANR**

Mr. B. R. Warmaa, Advocate for the applicant
Mr. Ujwal Patil, Advocate for the respondent No.1

CORAM : KISHORE C. SANT, J.

DATE : 18th October, 2022

P. C.

1. This is an application seeking condonation of delay of 1954 days i.e. caused in filing application seeking leave to file an appeal against acquittal. The order dated 11-06-2014 is impugned in the appeal. It is the submission of the learned advocate for the appellant that the impugned order was wrongly challenged before the court of Sessions at Dhule by filing criminal revision application No. 50/2014. Said revision was allowed by the judgment and order dated 14-06-2019. However, respondent No.1 challenged that order before this court by filing criminal application No.1065/2019. This court by order dated 27-09-

2019, was pleased to hold that revision application that was preferred by the appellant/complainant was not maintainable. The order passed in the revision application came to be quashed and set aside. It is thereafter, this applicant has filed appeal against acquittal. The delay is bonafide and same is caused because of the proceeding that was wrongly taken by the complainant.

2. Considering that he submits that actual delay is only 18 days.

3. Learned advocate for the respondent submits that by choosing the wrong forum the complainant-appellant has in fact caused great inconvenience to the respondent. He submits that respondent No.2 is not served. But he is appointed by the court to represent the respondent No.2. He submits that in fact notice will have to go to respondent No.2.

4. Learned advocate for the appellant responds saying

that respondent No.2 is already declared as absconding and proclamation to that effect was also issued and thus, it is clear that she will not be served in spite of efforts and once she is already proclaimed to be absconding there is no use of service as it is the only proceeding of restoration of the complaint where she is already proclaimed as absconding and thus no notice is necessary. Learned advocate therefore, rightly appointed to represent respondent No.2 by order dated 22-02-2022.

5. Considering that this is an application seeking only condonation of delay and delay is only of 18 days, the application is allowed. Office to register the appeal seeking leave to file appeal against acquittal.

6. Application stands disposed off.

[KISHORE C. SANT, J.]