

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.53 OF 2017

Purnima Soni and another

Petitioners

versus

The State of Maharashtra and another

Respondents

Mr.Sandeep Kumar Singh, Advocate for petitioners.

Mr.Mehul Hartalkar, Advocate for respondent no.2.

Mr.A.R.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 13th June 2022

PC :

1. The petitioners had preferred revision application before the Court of Sessions challenging the order issuing process dated 21st July 2015 passed by learned Metropolitan Magistrate, 66th Court, Andheri, Mumbai for the offence u/s.499, 500 of Indian Penal Code.

2. There was delay in preferring revision application and the petitioners had moved the Miscellaneous Application No.1956 of 2016 for condonation of delay. The delay was around 144 days. Learned Additional Sessions Judge for Greater Bombay vide order dated 4th October 2016 rejected the application for condonation of delay.

3. Learned advocate for petitioners submitted that sufficient cause was shown to condone the delay. The ground of ill-health was enumerated in the application for condonation of delay. Learned Sessions Judge ought to have condoned the delay in the interest of

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justice by allowing petitioners' to contest the revision application on merits.

4. Learned counsel for respondent no.2 submitted that application for condonation of delay was silent about cause for delay. Vague averments were reflected in the application. There was delay of 144 days. The petitioners are trying to prolong the proceedings before Trial Court. Learned Sessions Judge has rightly rejected the application for condonation of delay. Medical documents were not supporting the averments in the application.

5. I have perused the application for condonation of delay and the impugned order dated 4th October 2016. The petitioners were aggrieved by order of process. In the application for condonation of delay it was stated that petitioner no.1 came to know that complaint has been filed in December-2015. Petitioner no.1 could not approach the Court as she was not well and suffering from illness and doctor advised her to take bed rest. The petitioners are relying on the case papers which are annexed to this petition. Apparently medical papers were not part of application before Sessions Court. While deciding application for condonation of delay, the Court is required to take into consideration the fact that as far as possible the parties be permitted to contest the matter on merits. In the interest of justice, the delay ought to have been condoned by the Sessions Court. The applicant had in brief attributed illness for delay.

6. Hence, I pass following order :

ORDER

(i) The order dated 4th October 2016 passed by Additional Sessions Judge, City Civil & Sessions Court, Greater Bombay in

Miscellaneous Application No.1956 of 2016 is set aside;

(ii) Delay in preferring Revision Application by petitioners is condoned;

(iii) Revision Application preferred by petitioners is restored to file;

(iv) Learned Additional Sessions Judge shall hear Revision Application preferred by petitioners on merits;

(v) Hearing of Revision Application No.955 of 2015 is expedited and Sessions Court is requested to dispose of said application within a period of three months from the date of receipt of copy of this order;

(vi) Both the parties are directed to appear before the Sessions Court on 11th July 2022;

(vii) The writ petition stands disposed of.

(PRAKASH D. NAIK, J.)

MST