

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO.69 OF 2022
IN
MISC. APPLICATION NO.309 OF 2021
IN
CRIMINAL COMPLAINT NO.SS/4539/2018**

Mrs. Manju Garg ... Petitioner
Versus
The State of Maharashtra
And Others ... Respondents

Mr. Abdulla Katlariwala for the Petitioner
Mr. K.V. Saste, APP for Respondent No.1-State.

CORAM : S. M. MODAK, J.

DATE : 13 APRIL 2022

P. C. :

. Considering a short issue involved in this Petition, it is taken up for final hearing. There is only prayer for issuing directions to the Sessions Court at Dindoshi to decide the delay condonation application expeditiously. Respondent No.2 is the original complainant whereas Respondent No.3 is the company, in which the Petitioner is one of the Directors. This Court feel that even if direction is issued for expeditious hearing, no harm will be caused to Respondent No.3 from the original complainant and hence, the matter is taken up for final hearing. **Rule.**

2 The parties are referred to by their original status before the Trial court. The Complainant has filed a case before the Court of learned Magistrate, 48th Court, Andheri against in all three accused persons. It is for the offence punishable under Sections 138 read with 141 of the Negotiable Instruments Act, 1881. Accused No.1/Respondent No.3 is the

company, whereas the present Petitioner is the accused No.2 and present Respondent No.4 (who is no more) is accused No.3.

3 Earlier to this Petition, the present Petitioner had filed the Criminal Writ Petition No.3298 of 2021. It was for quashing. As per Order dated 22 September 2021, liberty was given to the Petitioner to challenge the Order dated 30 April 2019. At the same time, direction was given to the learned Court to condone the delay by keeping in view of the provisions of Section 14 of the Limited Act. Its copy is filed on record. Thereafter the Petitioner filed the delay condonation application, bearing M.A. No.309 of 2021 before the Dindoshi Court and now it is pending for hearing. Copies of Roznamas dated 11 November 2021, 7 December 2021 and 22 December 2021 are filed on record. On their perusal, it is clear reply to the delay condonation application is also filed and Court could not take up the matter as busy in some other matters including bail applications and anticipatory bail applications. Copies of the roznamas dated 11 January 2022, 11 April 2022 and 22 February 2022 were shown to me, these are taken on record and marked 'X' for identification. Now the hearing is kept on 23 June 2022. The reason for not taking the matter on 11 April 2022, was that the Court was busy in hearing the Bail Applications.

4 It is submitted that even though this Court while disposing of the criminal writ petition has specifically directed the trial court to condone the delay, Dindoshi Court could not take up the matter as busy in other urgent matters. It is submitted that today the matter is kept before the trial court for deciding the application under Section 143-A of the Negotiable Instruments Act, 1881. It empowers the trial court to direct drawer to pay the interim compensation to the complainant. The

Petitioner apprehends that the trial court may issue direction and after such directions are issued, its revision application (which may be registered lateron), will become infructuous.

5 This Court feels that directions can be issued to Dindoshi Court to decide the delay condonation application. It may be true that Dindoshi Court may be overburdened in deciding the delay application. However, this Court feels that scope of delay condonation application is also limited. Because this Court has already said in its Order dated 22 September 2021 to condone the delay by considering the provisions of Section 14 of the Limitation Act. It may be true that while passing the Order, the original complainant was not present. Till the provisions of Section 14 of the Limitation Act are very clear.

6 At the same time, this Court feels that the Petitioner needs to be protected so far charges in the proceedings are concerned. This Court feels that there will be no harm caused to the Petitioner, if she will be required to file the reply to an application under Section 143-A of the Negotiable of Instruments Act, 1881. In view of that the following Order is passed :-

: ORDER :

- (i) The Court of Additional Sessions Judge, Dindoshi is directed to decide Misc. Application No.309 of 2021 on 23 June 2022 positively.
- (ii) If it could not be disposed of on that day for some unavoidable reasons, it has to be disposed of in any case within a period of three months thereafter.

- (iii) The Petitioner is permitted to file reply to an application under Section 143-A of the Negotiable Instruments Act 1881 before the Metropolitan Magistrate Court, if she desires.
- (iv) It is made clear that the Petitioner will not seek adjournment for filing reply to that application for any reason including pendency of the delay condonation application.
- (v) The proceedings before the Court of Metropolitan Magistrate is stayed till 23 June 2022 (except the Petitioner to file reply).
- (vi) The Petitioner is at liberty to request Dindoshi Court to extend the stay for proceedings before the Metropolitan Magistrate Court on 23 June 2022 if the delay condonation application is not decided on that day.
- (vii) With these observations, Rule is made absolute.
- (viii) The Writ Petition is disposed of.

RAJESH
VASANT
CHITTEWAN

Digitally signed by
RAJESH VASANT
CHITTEWAN
Date: 2022.04.18
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(S. M. MODAK, J.)