

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

**INTERIM APPLICATION NO. 2548 OF 2021
IN
CRIMINAL REVISION APPLICATION(ST) NO. 7121 OF 2021**

Dipesh Devshi Dedhia ...Applicant
Versus
Hemangi Dipesh Dedhia And Anr. ...Respondents

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Ms. Leena Patil, Advocate for the Applicant.

Mr. Kaustubh H. Sawairam for Respondent No.1.

Mr. A. R. Patil, APP for the Respondent – State.

**CORAM : PRAKASH D. NAIK, J.
DATE : 5th JULY, 2022.**

PER COURT:

1. This is an application seeking condonation of delay of 573 days in preferring Criminal Revision Application challenging the order dated 11th September, 2019 passed by the Sessions Court in Criminal Appeal No.537 of 2019.

2. Criminal Appeal No.537 of 2019 was preferred by the Applicant challenging the order dated 29th October, 2018 passed by the learned Metropolitan Magistrate 73rd Court, Vikroli, Mumbai, whereby the Applicant was directed to pay interim maintenance at the rate of 12,000/- per month to the wife and Rs.5,000/- per month towards the rent from the date of application. The order

dated 29th October, 2018 was modified by the learned Additional Sessions Judge vide order dated 11th September, 2019 to the extent that the Applicant was directed to pay interim maintenance at the rate of 10,000/- per month to Respondent No.1 towards her maintenance including maintenance for her daughter, from the date of filing of the interim maintenance application, till final disposal of the case.

3. Learned Advocate for the Applicant submitted that the Applicant was intending to file an application as expeditiously as possible. However, due to financial difficulty he could not approach the Court earlier within a period of limitation, hence, delay was not caused. Due to Covid-19 pandemic he could not approach the Legal-aid Services. The delay is neither intentional nor malafide. In case the delay is not condoned and the revision application is not heard on merits, prejudice will be caused to the Applicant.

4. Affidavit-in-reply has been filed on behalf of Respondent No.1 opposing the application for condonation of delay. Learned Advocate for Respondent No.1 submitted that the delay has not been explained by the Applicant. The pandemic had struck on 23rd March, 2020. The Applicant had sufficient time to approach for Legal-aid or the Court. The cause of delay mentioned in the

application is not satisfied. The delay has to be explained in accordance with Section 5 of the Limitation Act. No cause is shown to explain the delay.

5. The application for condonation of delay and the revision application are pending in this Court since 2021. As far as possible the litigant be permitted to contest the matter on merits. The Revision Applicant had preferred an appeal before the Sessions Court being aggrieved by the order of maintenance passed by the trial Court. For the reasons stated in the application and in the interest of justice, the delay is condoned.

6. Hence, I pass the following order :-

ORDER

- i. Interim Application No. 2548 of 2021 is allowed.
- ii. The delay in preferring Criminal Revision Application (St.) No.7121 of 2021 is condoned.
- iii. Interim Application is disposed of accordingly.

(PRAKASH D. NAIK, J.)