

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

CRIMINAL WRIT PETITION NO. 1832 OF 2022

M/s The Maroon Manor Llp And Anr ...Petitioner
Versus
Mohammed Saleem Khan And Anr ...Respondent

....

Mr. Abbas Zaidy a/w Ms. Sulogna M. i/by Zohair and Co.,
Advocate for the Petitioner.

Mr. Manoj Jaiswal Advocate for Respondent No.1.

Mr. S. R. Agarkar, APP for the Respondent – State.

....

Digitally signed
by
DNYANESHWAR
ASHOK ETHAPE
Date:
2022.09.23
11:43:23 +0530

CORAM : PRAKASH D. NAIK, J.

DATE : 21st SEPTEMBER, 2022

PC :

1. The petitioner is prosecuted for offence under Section 138 of the Negotiable Instruments Act. The proceedings are pending before the learned Metropolitan Magistrate, 7th Court, Bhoiwada, Dadar, Mumbai.

2. The petitioner had preferred revision application before the Sessions Court. The application for condonation of delay was filed before the said Court. The said application is rejected by learned Sessions Judge vide order dated 27.04.2022 on the ground that there was no explanation for condoning the delay for a period from

20.01.2020 to 15.03.2020.

3. Learned advocate for the petitioner has relied upon the direction of the Apex Court with regard to the extension of limitation during pandemic, more particularly paragraph 8(ii) wherein it is follows:-

“8. (ii) In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the actual balance period of limitation remaining, with effect from 03.10.2021, is greater than 90 days, that longer period shall apply.”

4. It is submitted that in the light of the aforesaid direction, the petitioner had preferred revision application within permissible period and there was no delay in preferring revision application.

5. Learned advocate for respondent has opposed the application. It is submitted that there is delay in preferring revision application. The petitioners are attending the trial Court. The examination in chief of the complainant is recorded which is followed by cross-examination. To avoid direction under section 143(A) of the Negotiable Instruments Act, the petitioner have moved before the

Sessions Court belatedly hence, delay may not be condoned.

5. In view of the direction of the Apex Court herein above in SMW (C) No. 3 of 2022 and in the interest of justice, the delay if any is condoned. As far as possible the litigant must be given opportunity to contest the litigation on merits. Unless delay is gross and litigant was completely lethargic in exercising his right to move the Court. Hence, I pass the following order:-

ORDER

- (i) Criminal Writ Petition No. 1832 of 2022 is allowed;
- (ii) Order dated 27.04.2022 passed by Additional Sessions Judge, Mumbai rejecting the application for condonation of delay is set aside.
- (iii) The delay is condoned.
- (iv) The learned Sessions Judge shall hear the revision application on merits and decide it expeditiously. It may not be construed that this Court has considered the merits of case while allowing this petition and the learned Sessions Judge shall proceed with revision application in accordance with law.
- (v) Petition stands disposed of.

(PRAKASH D. NAIK, J.)