

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

CRIMINAL WRIT PETITION NO. 3376 OF 2022

Survarna Jagdish Dadhakar ... Petitioner
V/s.
Krishna P. Gurav & Ors. ... Respondents

Mr. R. G. Panchal a/w S. S. Gundajwar, Mr. Dilip Medhe, Mr. A. R. Kori, Mr. Pramod Yadav for Petitioner.

Ms. Anjali Purav Yajurvedi for Respondent No. 1

Mr. A. R. Patil, APP for Respondent (State)

CORAM : AMIT BORKAR, J.

DATED : 15th NOVEMBER, 2022

P.C.:

- 1. Rule.** Rule is made returnable, by consent of parties.
- 2.** The challenge in this order is rejection of an Application to condone delay in filing Revision Application. The petitioner is original complainant, who had filed a complaint alleging commission of offence under Sections 465, 467, 468, 420 read with 34 of Indian Penal Code, 1860.
- 3.** The learned Magistrate by order dated 20th April, 2018 issued process only against accused no.1. The order of refusal to issue process against accused nos.2 and 3 was challenged by way of Revision. The order passed by the learned Magistrate is dated 20th April, 2018. The petitioner applied for certified copy on 23rd

April, 2018 which was received by him on 12th June, 2018. The period provided under the statute to file Revision is 90 days. Therefore, in my opinion, if the period taken for getting certified copy is excluded, the petitioner has made out a sufficient cause for explaining delay, if any, in filing the Revision Application.

4. In my view, therefore, the learned Sessions Judge was not justified in rejecting the Application, as it appears that he has filed the Application within 90 days and in any case, there cannot be delay of more than one or two days in filing the Application for Revision.

5. Considering the explanation in paragraph no.9 of the impugned order, the petitioner had made out a case. Hence, the following order is passed :-

(i). The impugned order dated 21st December, 2019 passed by the learned District Judge-2 and Additional Sessions Judge, Kalyan is quashed and set aside.

(ii). The learned Sessions Judge is directed to decide the Revision Application on merits in accordance with law.

6. The Petition is disposed of in above terms. No costs.

(AMIT BORKAR, J.)