

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 34 OF 2021

IN

**APPLICATION FOR LEAVE TO FILE APPEAL BY PVT. PARTY (STAMP)
NO. 78 OF 2021**

Parmeshwar Gangadhar Aage

.. Applicant

Versus

Kishor Damodhar Kulkarni

.. Respondent

Mr. D. B. Pokale, Advocate for the Applicant.

Mr. A. G. Deshmukh, Advocate for Respondent.

AND

CRIMINAL APPLICATION NO. 35 OF 2021

IN

**APPLICATION FOR LEAVE TO FILE APPEAL BY PVT. PARTY (STAMP)
NO. 80 OF 2021**

Bhagwat Dnyanoba Lande

.. Applicant

Versus

Kishor Damodhar Kulkarni

.. Respondent

Mr. D. B. Pokale, Advocate for the Applicant.

Mr. A. G. Deshmukh, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATED : 12th JANUARY, 2023.

P C. :-

. Heard learned advocates for both the parties.

2. These are the applications for condonation of delay. The delay is of 1329 days caused in filing applications seeking leave to file the appeals against acquittal by judgment dated 16.03.2017 passed by the

learned J.M.F.C., Majalgaon in S.C.C. No. 368/2012 and S.C.C. No. 367/2012. The learned Magistrate has acquitted the accused of the charges under Section 138 of the Negotiable Instruments Act (for short “N.I. Act”). Learned advocate for the applicants submits that the reason for delay is that the applicants had instructed their advocate to file the appeals in the Sessions Court. The applicants were under impression that their advocate has filed the appeals in the Court of learned Sessions Judge. However, in the month of February 2020 they realized that there was no appeal filed by their advocate in the learned Sessions Court. On enquiry they came to know that the appeal lies before the High Court and it is thereafter they have approached to their advocate, who appears in the High Court and instructed to prepare and file appeal. Learned advocate submits that it is because of this reason the delay is caused which is not intentional or deliberate.

3. Considering the facts, this Court feels in the interest of just to allow the applications by condoning the delay. The delay is condoned.

4. In view of the above, both the criminal applications are allowed and disposed off accordingly.

(KISHORE C. SANT, J.)

P.S.B.