

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

956 CRIMINAL WRIT PETITION NO.1204 OF 2022

RAJENDRA NARAYAN ROKADE AND ANOTHER
VERSUS
SHAKIL BABUBHAI SHAIKH AND ANOTHER

...
Advocate for Petitioners : Mr.Solanke Shikrashna B.
APP for the Respondent – State : Ms. P. V. Diggikar
Advocate for Respondent : Mr. Z. H. Farooqui h/f.
Mr. N. V. Gaware

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CORAM : S. G. CHAPALGAONAKAR,J.

DATE : 25.08.2023

PER COURT :-

1. The petitioners take exception to the order dated 28.07.2022 passed by the Additional Sessions Judge, Ambejogai below Exhibit 1 in Criminal Misc. Application No. 142/2021, by which, the delay of 1491 days caused in filing the revision application has been condoned.
2. Mr. Solanke, learned Advocate appearing for the applicant would submit that the order which was subjected to revision before the Sessions Court is passed on 22.11.2017. However, the revision application filed with inordinate delay of 1491 without plausible explanation in the application seeking its condonation. He would submit that the reason mentioned in the application is patently false and incorrect. Relying upon the copy of roznama in SCC No. 646/2017, he would submit that the order of issuance of process was passed in presence of the learned Advocate appearing for both parties

and Advocates. The contention raised in the application that the complainant has no knowledge about the order, cannot be accepted.

3. Per contra, Mr. Z. H. Farooqui holding for Mr. N. V. Gaware, learned Advocate appearing for respondent No.1 would submit that the Sessions Court has adopted liberal approach in the matter of condonation of delay, as has been laid down by the Supreme Court of India in many cases. He would submit that delay occasioned because of communication gap between the complainant and his Advocate. Further since 2020 there was pandemic situation.

4. Having considered the submissions advanced apparently the Sessions Court condoned the delay in exercise of the discretion. It is trite that unless delay is deliberate and the person seeking condonation of delay has taken undue advantage out of such delay term, sufficient cause should be liberally construed. The Sessions Court has exercised jurisdiction in light of aforesaid principles of law. In that view of the matter, no case is made out to cause interference in writ jurisdiction under Article 227 of the Constitution of India, 1950. There is no merit in petition. Hence following order :

ORDER

Writ Petition is dismissed.

(S. G. CHAPALGAONKAR)
JUDGE