

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

CRIMINAL APPEAL (STAMP) NO.916 OF 2019

**WITH
CRIMINAL APPLICATION NO.1116 OF 2019
IN
CRIMINAL APPEAL (STAMP) NO.916 OF 2019**

SULABHA CHAKRAPANI SARVADE ..APPELLANT
VS.

BAJRANG @ VIJAY NIVRUTTI PATIL
& ANR. ..RESPONDENTS

Adv. Amol S. Suryawanshi for the appellant.

Adv. Akshay Kulkarni i/b. Adv. Ashutosh M. Kulkarni for the
respondent no.1.

Mr. Y. M. Nakhwa, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 9, 2023.

P.C. :

1. Heard learned counsel for the applicant.
2. This is an application for condonation of delay of 4 years, 5 months and 15 days in filing appeal against an order of acquittal.
3. The applicant is the first informant. The applicant had filed First Information Report (FIR) alleging that the accused

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had committed offence punishable under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 323, 365, 504, 506 of the Indian Penal Code.

4. Though this is an application for condonation of delay, with the assistance of learned counsel I have gone through the judgment and order of the trial Court acquitting the accused. Before the trial Court, the star witnesses had turned hostile and the trial Court recorded that there was no hope of securing conviction against the accused and therefore, further evidence was closed. The statement of the accused under Section 313 of the Code of Criminal Procedure was dispensed with. The trial Court observed that the prosecution has failed to make out the case and prove the charges. The trial Court had also considered that both the witnesses of the prosecution stated nothing against the accused.

5. Learned counsel for the applicant submitted that there is sufficient cause for condonation of delay. He invited my attention to the reasons stated in the application. It is the submission of learned counsel that in view of the

compromise arrived at between the parties out of Court that the accused was acquitted. Pursuant to the order of acquittal, the Special Civil Suit No. 261 of 2015 for compensation came to be filed by the accused and in that suit, the accused denied out of Court compromise between the parties in Special Case No.2/2014 from which proceeding the present appeal arises. It is thus seen that though the applicant was aware that the accused was not honouring the compromise from as far back as in 2015, the Criminal Appeal is filed after 4 years on this very ground. In any case, the order of acquittal by the trial Court was on account of the fact that star witnesses turned hostile and there was no evidence on record to support the case of the prosecution and not on the ground of compromise urged by learned counsel for the appellant.

6. Further the reasons as mentioned in the application for delay that the applicant is a layman and some time was required for collecting money and collecting documents are not sufficient to condone the delay. The reasons for condonation are far from satisfactory.

7. So far as the breach of the compromise is concerned,

it is for the applicant to resort to appropriate remedies. The contentions of both the parties in that regard are kept open.

8. The application is disposed of.

9. Consequently, Criminal Appeal (Stamp) No. 916 of 2019 is also disposed of.

(M. S. KARNIK, J.)