

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

CRIMINAL APPLICATION NO.204 OF 2023

Rupen Doshi

.... Applicant

versus

The State of Maharashtra & Anr.

.... Respondents

.....

- Mr. Vikram Sutaria a/w Agastya Desai a/w Nishi Singhvi, Advocate for Applicant.
- Mr. M. G. Patil, APP for the State/Respondent.
- Mr. Shrikant S. Shirsath, Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 22nd JUNE, 2023

P.C. :

1. Heard Mr. Vikram Sutaria, learned counsel for the Applicant, Mr. Shrikant S. Shirsath, learned counsel for Respondent No.2 and Mr. M. G. Patil, learned APP for the State.
2. Both of them stated that the same impugned order i.e. the order dated 17/03/2022 passed by the learned Metropolitan Magistrate, 40th Court, Girgaon, in CC No.50/SW/2020 is

challenged by the Respondent No.2 by way of Criminal Revision Application No.410 of 2022 before the Court of Sessions, Greater Mumbai. The subject matter of the present application is also the same impugned order.

3. In this view of the matter it would be appropriate if the same issue is decided by the same Court. The present Applicant has an alternate remedy of approaching the Court of Sessions by filing his separate Revision Application. Therefore, in my opinion it would be an appropriate course if the Applicant is permitted to approach the Court of Sessions by way of Revision Application raising the same issues which are raised in the this application. The question of condoning of delay in approaching the Sessions Court can be decided in the light of the fact that he has filed the present application and was pursuing it diligently. The ad-interim relief, which is running in his favour, can be continued for a reasonable time. Learned counsel, therefore, in view of this discussion seeks withdrawal of this application with liberty to approach the Court of Sessions.

4. Hence, the following order :

ORDER

- (i) The application is allowed to be withdrawn with liberty to the Applicant to approach the Court of Sessions, at Greater Mumbai, by way of filing Revision Application challenging the same impugned order dated 17/03/2022 passed by the Metropolitan Magistrate, 40th Court, Girgaon, Mumbai, in CC/50/SW/2020. After such Revision Application is filed, it shall be decided in accordance with law on its own merits.
- (ii) In case, the question of delay in filing the Revision Application is raised, the Sessions Court shall take into account the fact that the Applicant was diligently pursuing the present Criminal Application No.204 of 2023 before this Court.
- (iii) The Revision Application which the Applicant herein proposes to file before the Sessions Court,

shall be decided together with the Criminal Revision Application No.410 of 2022 which is pending before the Court of Sessions, at Greater Mumbai.

- (iv) Ad-interim relief which is running in favour of the Applicant in this application, shall be continued for a period of four weeks from today, within which period the Applicant shall obtain necessary orders from the Court of Sessions at Greater Mumbai.
- (v) With these observations, the application is disposed of.

(SARANG V. KOTWAL, J.)