

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

CRIMINAL APPLICATION NO.825 OF 2023

Rakhi Kiran Kumavat

.....Applicant

Versus

Chandrakant Traymbak Bhamre

and another

.... Respondents

Mr. Ranjit G. Jadhav, Advocate a/w. Sagar Batavia for the Applicant.

Mr. Yogesh Y. Dabke, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 03rd NOVEMBER, 2023

P.C. :

1. The Applicant is the original accused in S.C.C. No.2851/2021 before the Judicial Magistrate, First Class, Malegaon. Learned Magistrate issued process against the Applicant vide order dated 29.1.2022.

2. The Applicant filed an application at Exhibit-11 in the said case before the Magistrate for dismissal of the complaint. Learned Magistrate, vide her order dated 15.11.2022, dismissed that application on the ground that there was no provision for dismissal of the complaint after

issuance of process.

3. The Applicant did not challenge the order of issuance of process dated 29.1.2022, instead, chose to challenge the order dated 15.11.2022 by way of Criminal Revision Application No.80/2022 before the Additional Sessions Judge, Malegaon. That Revision Application was dismissed. It was observed that there was no error committed by the learned Magistrate in passing the order dated 15.11.2022.

4. Learned counsel for the Applicant submitted that the Applicant had a remedy of challenging the order of issuance of process passed on 29.1.2022. Therefore, he seeks liberty to withdraw this application and seeks further liberty to approach the Court of Session at Malegaon by preferring Revision Application challenging the order of issuance of process. He submitted that he will file an application for condonation of delay as well.

5. Considering this request, the present application

is allowed to be withdrawn with liberty to the Applicant to approach the Court of Sessions at Malegaon by filing Criminal Revision Application against the order of issuance of process. The Applicant is at liberty to file an application for condonation of delay in preferring Revision Application. While considering the question of limitation, the Revisional Court shall take into consideration the fact that the Applicant was prosecuting earlier application before the Sessions Court and the present Application before this Court. The Revision Application as well as the application for condonation of delay shall be decided on their own merits, in accordance with law.

6. With these observations and liberty, the Application is allowed to be withdrawn and is disposed of accordingly.

(SARANG V. KOTWAL, J.)

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