

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4576 OF 2022
IN
APPLICATION FOR LEAVE TO APPEAL (ST) NO. 16498 OF 2022

The Champion India Industries Pvt.
Ltd., Through Sandeep Srivastava ...Applicant
vs.
The State of Maharashtra and Anr. ...Respondents

Shradha Sawant i/by Keegan Almeida - Advocate for the Applicants/
Appellants
Mr. H. J. Dedhia - APP for the State

CORAM : S. M. MODAK, J.

DATE : 02nd JANUARY, 2023

P. C. :-

1. Heard learned Advocate for the Applicant-Complainant. There is a delay of 20 days in preferring an Appeal. It was on account of illness of the Applicant. It is mentioned in para no. 5 of the application.

2. The Applicant has served the Respondent-accused by private notice and affidavit is filed. It mentions that the Respondent-accused is served on 06th October 2022 and necessary documents are annexed.

3. Learned Metropolitan Magistrate has acquitted the Respondent-accused for the offence punishable under Section 138 of the Negotiable Instruments Act. It is challenged by the Complainant. Yet Court has not issued notice. I think for deciding the delay condonation application, private notice is sufficient. Hence this Court is inclined to allow the application subject to the payment of cost of Rs. 2,000/- to be paid to the Respondent No. 2-accused. The cost to be deposited in the Court within two weeks from today and it be paid to the Respondent No. 2-accused.

4. Interim Application No. 4576 of 2022 is disposed of.

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5. Heard learned Advocate for the Complainant-Applicant. Today only delay condonation application is allowed. Learned Advocate undertakes to deposit the cost. There is acquittal mainly for two grounds. One is not producing the resolution and second is not proving the legally recoverable debt or liability.

6. The Court has to decide whether special leave can be granted under Section 378 (4) of the Criminal Procedure Code, hence issue notice to the Respondent No. 2-accused returnable on

13th February, 2023. Hand delivery be granted to the Applicant to deliver it to the concerned Court and to file necessary compliance affidavit before next date. In addition to that the Applicant is permitted to serve them privately and filed service affidavit before the next date. This notice be issued only after deposit of cost.

7. Learned APP Shri Dedhia waives notice on behalf of the State.

[S. M. MODAK, J.]