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921-crowp-997-22

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

921 CRIMINAL WRIT PETITION NO. 997 OF 2022

Sayad Mansur Usman,
Age : 82 years, Occu : Agril.,
R/o Samrath Niwas, Karjat Road,
Jamkhed, Tq. Jamkhed, Dist. Ahmednagar.

....PETITIONER
(Ori. Accused)

VERSUS

1. The State of Maharashtra
2. Shaikh Salim Abdul Gafur,
Age : 60 yrs, Occu : Agril.
R/o Kharda, Tq. Jamkhed,
Dist. Ahmednagar.

....RESPONDENTS
(Ori. Complainant)

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Advocate for the Petitioner : Mr. V. S. Bedre,
APP for Respondent No.1 / State : Mr. V. M. Chate
Advocate for Respondent No.2 : Mr. Anand D. Kawre

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 26.11.2024

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and with consent of both the sides, heard finally.
2. In the present case, the only question arises, whether the delay caused in filing Revision Application challenging an order of issuance of

process is sufficiently and bonafidely explained by the present Petitioner / accused.

3. Having regard to the submissions canvassed on behalf of both the sides, I have gone through the record.

4. It is not in dispute that Respondent No. 2 / original complainant filed a complaint bearing Criminal M. A. No. 445/2017 before the learned Judicial Magistrate First Class, Jamkhed. After compliance of Section 202 of the Code of Criminal Procedure, 1973, the learned trial Court issued the process against the present Petitioner/accused for the offences punishable under Sections 420, 465, 468 of I. P. C. Said summons was received by the present Petitioner / accused on 30.10.2018 and the matter was fixed for appearance of the Petitioner / accused on 01.11.2018. Indeed, the Petitioner / accused appeared before the trial Court on 01.11.2018 and on the same day he was released on bail. Thereafter, on 10.12.2018, the Petitioner / accused applied for certified copies and the same has been received by him on 16.01.2019. Thereafter, on 05.02.2019, the Petitioner /accused filed a Criminal Revision challenging the order of issuance of process. However, the delay of 75 days was caused in filing the Revision Application. The Petitioner / accused produced the medical certificates

to explain the delay. However, on 20.06.2022 the learned Additional Sessions Judge, Shrigonda passed the impugned order holding that the medical papers produced by the present Petitioner / accused explaining the delay are pertaining to the period subsequent to filing of the revision and the application for condonation of delay is not supporting or not explaining the delay or illness of the present Petitioner / accused for the period with effect from dated 30.10.2018 till 05.02.2019.

5. Needless to say that the fact of producing the medical certificates subsequent to the filing of revision was not denied by the Petitioner / accused. As per the provisions of Section 5 of the Limitation Act, 1963, the Court is empowered to condone the delay, if it is sufficiently and bonafidely explained by the aggrieved party. In the case in hand, it appears that on 24.08.2018, the learned trial Court issued process as against the present Petitioner/accused for the offences punishable under Sections 420, 465, 468 of I. P. C. The present Petitioner / accused served with summons / process on 30.10.2018 and he appeared on 01.11.2018 and on the same day he was enlarged on bail. Thereafter, on 10.12.2018 he applied for certified copies and on 16.01.2019, he received the same. Thereafter on 05.02.2019, a revision challenging the order of issuance of process dated 24.08.2018 was

filed. However, the Petitioner has not given any explanation about the period with effect from 30.10.2018 till 05.02.2019.

6. Therefore, I do not find that the findings recorded by the learned revisional Court are perverse. Therefore, no interference is required at the hands of this Court. Hence, the present Petition shall stand dismissed. Accordingly, Rule is discharged.

(Y. G. KHOBRADE, J.)

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