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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 638 OF 2018

IN

CRIMINAL APPLICATION NO. 272 OF 2013

Parvez Mahamad Maner

....Applicant

V/S

Chandulal Mahamad Shaikh And Anr

....Respondents

Mr. Sejal A. Hariyan i/b Mr. Padmanabh D. Pise for the Applicant.
Ms. Dhanalashmi S. Krishna Iyer, APP for the Respondent No.2.

CORAM : M.M. SATHAYE, J.

DATE : 3 OCTOBER 2024

P.C. :

1. Heard learned counsel for the Applicant and learned APP for Respondent No.2.
2. This is an application for restoration of the application for leave to file appeal, which was dismissed for want of prosecution on 11 November 2013.
3. Learned counsel for the Applicant submits that the offence involved was u/s. 420 of Indian Penal Code, 1860 arising out of sale of property and according to the Applicant he was cheated for an amount of Rs.50,000/-.
4. Case of the Applicant is that the Applicant was under impression that the clerk of his Advocate has taken proper steps as per order dated 18 June 2013. It is further his case that Applicant's

Advocate had instructed his colleague to seek adjournment in the matter on the date of its dismissal. Perusal of the para 5 of the application shows that apart from reasons stated above, the Applicant has stated that he himself was relying upon his brother relative who has having companion matter and who was looking after the said matter. It is stated that therefore the Applicant could not communicate his Advocate at Mumbai regarding enquiry. It is further stated that somewhere in the month of April 2018 when the Applicant had occasion to come to Mumbai, he met his Advocate and made enquiry and then this application is filed.

5. The reasons stated above, to say the least, shows complete negligence on the part of the Applicant in looking after his own court-case. The application was dismissed for default on 11 November 2013 and present application is affirmed on 6 April 2018 and filed on 1 June 2018. As such, there is apparently delay of about 4 years and 4 months. The period of delay in the present case is considerably large and is not at all satisfactorily or sufficiently explained.

6. In that view of the matter, no case for restoration or condonation of delay is made out. The application is accordingly dismissed.

7. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)