

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

CRIMINAL WRIT PETITION NO. 2582 OF 2024

Bhagyashree W/o. Ajay Shirke

...Petitioner

Vs.

Satish Pandurang Kotwal And Anr.

...Respondents

Mr. Harishchandra D. Chavan a/w Mr. Santosh Kalokhe for the Petitioner.

Mr. Raturaj Bathe for the Respondent No.1.

Ms. R. V. Newton, APP for the Respondent No.2/State.

CORAM : SHYAM C. CHANDAK, J.

DATED : 10th DECEMBER, 2024

P.C. :-

. Present Petition filed under Section 227 of the Constitution of India seeking to quash and set aside the impugned Order dated 8th August, 2022 passed by the learned Additional Sessions Judge, Pune whereby the Criminal M. A. No.285/2022 seeking to condone 21 days delay in filing a Criminal Appeal by the Petitioner, came to be rejected.

2) Heard Mr.Chavan, learned Advocate for Petitioner, Mr.Bathe, learned Advocate for the Respondent No.1 and learned APP for the Respondent No.2-State. Perused the record.

3) **Rule.** Rule is made returnable forthwith. With consent of the learned Advocates for the respective parties, heard finally.

4) The Petitioner has been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1988 and sentenced

to suffer S.I. for six months and to pay a fine of Rs.15,00,000/-, in default to suffer S.I. for 15 days and the said amount of Rs.15,00,000/- was directed to be paid to the Respondent No.1/Complainant as compensation under Section 357(1) (b) of Code of Criminal Procedure *vide* Judgment and Order dated 13th May, 2022 passed by the Court of Judicial Magistrate First Class, Cantonment Court, Pune in SCC No.1055/2018. However, there was 21 days delay on the part of the Petitioner to file an appeal challenging the said conviction and sentence. Therefore, the Petitioner filed the said Criminal M. A. No. 285/ 2022 seeking to condone the 21 days delay on the ground that due to matrimonial disputes, the Petitioner and her husband have been residing separate for last three years and her husband is monetarily not helping the Petitioner. The Petitioner therefore was short of money to file the Appeal.

5) The aforesaid ground did not impress the learned Additional Sessions Judge. Further, the said learned Judge noted that the Petitioner has failed to comply with the Order dated 8th July, 2022 and deposit the amount of Rs.2,40,000/-. That apart, the Petitioner filed an Application at Exhibit-6 seeking to set aside the said Order dated 8th July, 2022.

6) However, it is material to note that, as submitted by the learned Advocate Mr. Chavan, the Petitioner has undergone the entire substantive sentence; that, out of the amount of Rs.2,40,000/- the Petitioner has deposited Rs.1,00,000/- in the recovery proceedings before the trial Court; and that, the Petitioner undertakes to deposit the

remaining amount of Rs.1,40,000/-, within two weeks from today.

7) In view thereof and considering the delay in complying with the Order dated 8th July 2022, the impugned Order deserves to be set aside but subject to a reasonable costs i.e., Rs.10,000/-. The Petition succeeds partly, thus. Hence, following Order :-

ORDER

- (a) Petition is partly allowed.
- (b) The impugned Order dated 8th August, 2022 below Application Exhibit-1 in Criminal M.A. No.285/2022 passed by the learned Additional Sessions Judge, Pune is quashed and set aside.
- (c) Said Criminal M.A. No.285/2022 is allowed subject to payment of costs of Rs.10,000/-. Said costs to be paid to the Respondent No.1/Complaint.
- (d) The Petitioner shall deposit an amount of Rs.1,40,000/- in the Appellate Court, towards compliance of the Order dated 8th July, 2022.
- (e) The Petitioner shall pay the aforesaid costs and deposit the aforesaid amount of Rs.1,40,000/- as directed above, within one week from the date of uploading of this Order on the official website of this Court.
- (f) On payment of the aforesaid amounts the Appeal filed by the Petitioner shall be registered.

- (g) The Appellate Court is requested to hear and dispose of the said Appeal expeditiously, if possible, without affecting the cases requiring expeditious hearing and disposal.
- 8) List the matter for recording compliance on **20th December, 2024.**

(SHYAM C. CHANDAK, J.)