



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO.951 OF 2023
IN
CRIMINAL APPEAL STAMP NO. 6615 OF 2023

Jaiprakash Hiralal Mishra
Vs.
Raviraj Gayaprasad Ingole

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. N. R. Kanungo, Counsel for appellant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 08/08/2024

1. By preferring this application, the appellant is seeking condonation of delay which is caused in preferring the appeal against the acquittal along with the application leave to file an appeal.
2. Learned Counsel for the appellant submitted that the matter was kept on 03.02.2023 for dismissal order. The learned Counsel and the appellant were present before the learned trial Court on 23.12.2022 and also requested the matter be kept for evidence but the same was kept for dismissal. Due to some unavoidable circumstances, the appellant could not attend the Court and therefore, on technical grounds the Judicial Magistrate First Class, Saoner has dismissed the complaint and acquitted the accused by using Section 256 of the Code of Criminal Procedure.

3. He submitted that on technical grounds the complaint of the complainant under Section 138 of the Negotiable Instruments Act was dismissed. After passing of the order, the appellant approached the trial Court and filed an application for certified copy thereafter, the appeal was to be filed on or before 03.04.2023, but he could not approach to the Counsel and filed an appeal and therefore, the delay of 120 days is caused.

4. Though respondent is served, none appears for the respondent.

5. Considering the reason mentioned in the application and considering the fact that on technical grounds the complaint of the complainant was dismissed. Opportunity is to be granted to the present appellant to contest the dispute on its own merits. Moreover, the liberal approach is to be taken while considering the delay application. The reason mentioned in the application appears to be just and reasonable. In view of that, the delay of 120 is condoned.

6. The application for leave to file an appeal be registered. On registration of the application for leave to file, notice be issued to the respondent, returnable after two weeks.

7. Criminal application is **disposed of**.

(URMILA JOSHI-PHALKE, J.)