



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION NO.1112 OF 2023

IN

CRIMINAL APPEAL (ST.) NO.7609 OF 2023

(Sachin Madhukar Purohit Vs. Arunodaya Magaswargiya Mazur Kamgar Co-operative
Society and ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. C.S. Dhore, Advocate for the appellant.
Mr. A.A. Choube, Advocate for respondent No.3.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- SEPTEMBER 26, 2024

By preferring this application, the applicant is seeking condonation of delay which is caused in preferring the appeal against acquittal.

2. It is submitted by the learned Counsel for the appellant that the appellant is the original complainant who filed complaint under Section 138 of the Negotiable Instrument Act, 1881. During the course of the proceeding as the appellant and his Counsel were absent, the learned trial Court has held that the appellant has lost interest in the matter and dismissed the complaint for default which resulted into the acquittal of the accused. It is submitted that the complainant inadvertently missed the dates of hearing which resulted in his absence, and thereafter he came to know about the dismissal of the matter and he applied for the certified copies. After receipt of the certified copies, he filed an appeal, and therefore, delay of 173 days is caused.

3. Learned Counsel for the respondents strongly opposed the application on the ground that the delay is not properly explained.

4. After hearing both the sides and on perusal of the application, it reveals that as the original complainant inadvertently missed the dates, and therefore, he remained absent and he was not aware about the dismissal of the complaint, therefore, the delay is caused. The delay appears to be just and sufficient reasons.

5. The delay is condoned subject to the costs of Rs.2000/-. The appellant shall deposit the costs in this Court within a period of two weeks.

6. On depositing the costs, the application for leave to file appeal be registered.

7. On registration of the application for leave to file appeal, notice be issued to the respondents, returnable after three weeks.

8. Mr. Choube, learned Counsel waives notice for respondent No.3.

(URMILA JOSHI-PHALKE, J.)