

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1332 OF 2025

Ahsan Zamirullah Islam @ Khan Petitioner

V/s.

Lodha Dwellers Pvt Ltd And Anr. Respondents

Mr.Vishal Patil a/w Mr.Afsar Ansari, for the Petitioner.

Mr.Amogh Singh a/w Mr.Rahul Arora i/b Mr.Jeet Gandhi, for
Respondent No.1.

Mr.S.H. Yadav, APP, for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 02nd MAY 2025

P.C:-

. By this Petition, the Petitioner has challenged order passed by the learned Additional Sessions Judge, Thane, dated 16th January 2025 allowing the Criminal Miscellaneous Application No.315 of 2024 filed by Respondent No.1 for condonation of delay in preferring of Criminal Revision in RCC No.3398 of 2023.

2. It is contention of the learned counsel for the Petitioner that, the Petitioner has filed private complaint under

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Section 420 and other relevant sections of the IPC against Respondent No.1. In the said complaint the learned JMFC, Thane has passed order of the issue process against Respondent No.1. The said order was challenged by the Respondent No.1 before the Additional Sessions Judge. There were delay of 300 days for challenging the said order. The delay is not properly explained in spite of that the learned Additional Sessions Judge has condoned the delay, which is erroneous. The learned Sessions Judge should have considered the fact that, there is no proper explanation about condonation of delay but this fact has not been considered and has passed impugned order. Hence, requested to allow the Petition.

3. It is contention of the learned counsel for the Respondent No.1 that, the Respondent No.1 has challenged issue process order passed by the learned JMFC before the learned Sessions Judge. The learned counsel further submitted that initially the issue process order was challenged by other party. The Petitioner had raised objection for challenge of issue process by other party, than Directors of the Company i.e. the

Respondent No.1, hence, the said Application was withdrawn and immediately within 10 days, fresh Application was filed by the Directors of Respondent No.1, so there was actual no delay to challenge the order. The delay was not intentional. The learned Sessions Judge has imposed cost of Rs.25,000/- while condoning the delay. The order passed by the learned Sessions Judge is well reasoned order. Hence, requested to dismiss the Petition.

4. I have heard both learned counsel. Perused impugned order.

5. While condoning the delay the learned Sessions Judge has observed that, the delay is not intentional or deliberate and by reasoned order the learned Sessions Judge has condoned the delay of 300 days by imposing cost of Rs.25,000/- on the Respondent. I do not find infirmity in it.

6. In my view, the Petitioner has filed complaint under Section 420 and other Sections of the IPC Against Respondent No.1. The issue process order is passed by the learned JMFC against the Respondent No.1. The Respondent No.1 has challenged the said order. Earlier representative of the

Respondent No.1 had challenged the said order, but due to objection the Petitioner said Application was withdrawn by representative of Respondent No.1 and fresh Criminal Revision Application was preferred by the Respondent No.1, it shows that, Respondent No.1 was contesting the issue process order.

7. It is settled law that proper opportunity be given to every party to put his side. Considering these facts I pass following order.

ORDER

- (i) The Writ Petition is dismissed.
- (ii) All pending Applications are disposed of.

(SHIVKUMAR DIGE, J.)