

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

REVISION APPLICATION NO. 311 OF 2025

Mohan Sahebrao Argade

...Applicant

Versus

Vijay Mahadev Godambe & Anr.

...Respondents.

Ms. Nidhi Chauhan i/b Mr. Akshay Naidu, learned Advocate for the Applicant.

Mrs. Geeta P. Mulekar, learned Addl.PP for the State/Respondent.

Mr. Akash Dalvi (Through VC), learned Advocate for Respondent No. 1.

CORAM : ASHWIN D. BHOBE, J.

DATE : 17th OCTOBER, 2025.

P.C. :

1. Heard Ms. Nidhi Chauhan, learned Advocate for the Applicant and Mr. Akash Dalvi, learned Advocate for Respondent No. 1 and Ms. Mulekar, Addl. PP for the State/Respondent.

2. By the present Application, the Applicant is assailing the order dated 15.7.2025 by which the Additional Sessions Judge, Pune has dismissed Criminal Misc. Application No. 171 of 2024 filed by the Applicant seeking condonation of delay of 128 days in preferring an appeal against the judgment of conviction and order of sentence dated 29.11.2023 passed by the Judicial Magistrate First Class, Pimpri, Pune in SCC No. 505 of 2017.

3. Reasons put forth by the Applicant for seeking condonation of delay in filing the Criminal Appeal are twofold: Firstly, lack of legal assistance/ proper guidance, as a result of which the Applicant not being assisted in the trial as well as after the conclusion of the proceedings bearing SCC No. 505 of 2017; and secondly, on the ground of his mother suffering from ailment and being under continuous medical treatment since the month of February, 2022.

4. Respondent No. 1 opposed the application seeking condonation of delay.

5. Ms. Nidhi Chavan, learned Advocate for the Applicant submits that the reasons put forth by the Applicant are bonafide. She submits that it was on account of the reasons beyond the control of the Applicant that the Applicant could not file the appeal within the prescribed time limit. She submits that the Applicant facing a conviction and being sentenced to imprisonment, the Applicant is required to be afforded an opportunity to assail the conviction order. She submits that grave and irreparable prejudice would be caused to the Applicant if the delay is not condoned as the same would amount in denial of a forum for the Applicant to test the order of conviction.

6. Per contra, Mr. Akash Dalvi, learned Advocate for the Applicant opposes the Application. He submits that the Applicant has taken court proceedings for granted, which is evident from the manner in which the Applicant handled the proceedings before the trial court. He submits that the delay of 128 days in filing the

appeal is a result of inaction on the part of the Applicant. He submits that Applicant was negligent in pursuing his remedies and therefore, no indulgence be shown to such litigant. He therefore, prays for dismissal of the present Revision Application with cost.

7. Indisputably, the Applicant is suffering a conviction for the offence punishable under section 138 of the N.I. Act, 1881. Applicant has been sentenced to undergo simple imprisonment for one year. Though Mr. Dalvi, may be right in his submission that the Applicant should have been diligent in pursuing his remedies moreso, when he is facing a conviction, however, the fact remains that the Applicant would not have gained by delaying filing of an Appeal, considering the Applicant being sentenced to imprisonment for one year.

8. In the event, the delay of 128 days in filing criminal appeal is not condoned, the same would amount to dismissal of the proposed criminal appeal, without it being considered on merits. Prejudice and injuries will be caused to the Applicant. Whereas prejudice if any caused to the Respondent No. 1 can be compensated by payment of costs.

9. In the facts and circumstances of the present case and considering the law enunciated by the Hon'ble Supreme Court in *Esha Bhattacharjee v/s. Managing Committee of Raghunathpur Nafar Academy & Ors*¹, this is a fit case for condoning the delay of 128 days by imposing cost of Rs. 40,000/- to be paid by the Applicant to the Respondent No. 1.

¹(2013) 12 SCC 649.
Talwalkar

10. Ms. Nidhi Chauhan on instructions from the Applicant states that the Applicant shall pay the cost of Rs. 40,000/- to the Respondent No. 1 within two weeks from today.

11. In view of the above, Revision Application is allowed in the following terms :

(a) Impugned order dated 15.7.2025, passed by the Court of Additional Sessions Judge, Pune in Criminal Misc. Application No. 171 of 2024 is set aside. Criminal Misc. Application No. 171 of 2024 is allowed, subject to Applicant paying cost of Rs.40,000/- to the Respondent No. 1 within the period of two weeks from today and producing acknowledgment receipt before the Registry of the Sessions Court, Pune. Upon production of the acknowledgment receipt, Criminal Appeal filed by the Applicant be registered.

(b) Failure to pay the cost within the period referred in para (a) above, will result in dismissal of the Criminal Revision Application No. 311 of 2025 with cost of Rs. 50,000/-.

12. Criminal Revision Application No. 311 of 2025 is allowed in the above terms.

[ASHWIN D. BHOBE, J.]