

GJVD010079382022



Order below Ex.1 in Cr. Misc. Appln. (Delay)
no.2223/2022

- 1) Present application is filed for condonation of delay of 29 days caused in filing Criminal Appeal against the order dtd. 08.08.2022 passed below Ex.1 in Criminal Misc. Application no.1338/2021 by Ld. 30th Addl. Chief Judicial Magistrate, Vadodara.
- 2) On issuance of notices upon the opponent, the opponent appeared through L.A. Mr. R.S.Agrawal and filed written objections at Ex.6 stating therein that the applicant has not explained cause of delay properly in the application. It is further submitted that the present application is barred by Section 5 and 29 of the Limitation Act and therefore, it is not tenable. Moreover, it is submitted that the appellant is trying to pass time by filing such type of appeal. Hence, the present application deserves to be dismissed.
- 2) Heard the Learned Advocate for the respective parties. I have also gone through the memo of application, the order under challenge and the grounds stated in the application. It is pertinent to note that it is always better to decide the matter on merits rather than on technical grounds. Hon'ble Gujarat High Court has also

held in various judgments that too technical view of the matter should not be adopted. The Courts are here to do substantial justice to the litigating parties and whenever the technical view and the substantial justice are confronted with each other, at that time, always preference must be given to substantial justice which can be done only by affording opportunity of hearing to both the parties.

- 5) In light of the above facts and circumstances, I allow this application and condoned the delay of 29 days in preferring criminal appeal.
- 6) Registry of the Court is directed to register criminal appeal.
- 7) copy of this order be placed in the criminal appeal.

Signed and Pronounced in the Open Court
on this 6th day of March, 2023

sd/-

Vadodara.
Date : 06/03/2023

(Madhuri Dhruvkumar Pandey)
M.A.C.Tribunal (Auxi.),
Vadodara.
CODE NO.GJ01542