

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
RA No.32 of 2019

Date	Order with signature of Judge
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1. For orders on CMA No.2208/2019
2. For hearing of CMA No.2207/2019
3. For hearing of main case

18.02.2020

Mr. S. M. Intikhab Alam, advocate for the applicant.
Mr. Amjad Hussain, advocate for Respondent No.2.

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Learned counsel for the applicant has contended that the trial Court while nonsuiting the application by dismissing his application for leave to defend as time barred has failed to take into consideration the circumstance which has caused alleged delay in filing application for leave to defend. He contended that there has been no delay from the date of supply of the copy. This is admitted position that the applicant was behind the bar when he was served only with notice in a criminal proceeding arising out of the same transaction. Record further shows that counsel of applicant has filed an application for supply of copy of the plaint with annexures on **02.5.2018** available at page **69** and there is a specific order of the Court to supply the copies but the respondent has not supplied copies. Therefore, the applicant was constrained to obtain certified copies and within two days from the date of supplying certified copy he filed application for leave to defend. All these facts have not been examined by the trial Court. The record shows that this case is arising out of civil suit on the cause of action by issuing cheque which was bounced and FIR was registered bearing FIR No.224/2017 for the same cause of action. The applicant has remained in jail for quite some time and by a comprehensive judgment he has already

been acquitted by order dated **07.7.2018**. Therefore, his application for leave to defend ought to have been allowed unconditionally.

Learned counsel for the respondent has not disputed the facts viz; the applicant was in jail and copies were not supplied despite order of Court. These facts were enough to appreciate that deliberate effort has been made by the respondent to non-suit the plaintiff in the name of limitation. However, after hearing the arguments at length learned counsel for the respondent is agreeable to the remand of the case with directions to the trial Court to decide the matter within three months. The case is remanded, trial Court is directed to decide the case on merits within three months in accordance with law. The parties are directed to appear before the trial Court on **29.02.2020**.

In view of the above, instant Revision Application is disposed of alongwith listed applications.

JUDGE

SM