

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2948 OF 2013 WITH
CRIMINAL APPLICATION NO.2947 OF 2013

The State of Maharashtra ... APPLICANT

VERSUS

Ramdas Narayan Thorat & anr. ... RESPONDENTS

.....
Mrs. R.K. Laddha, A.P.P. for the applicant/ State
Shri R.R. Karpe, Advocate for respondents
.....

CORAM: A.I.S. CHEEMA, J.

DATED: 16th January, 2015.

ORAL ORDER :

1. Heard learned A.P.P. for the applicant/ State and learned counsel for respondents No.1 and 2 with regard to Criminal Application No.2948/2013 for condonation of delay as well as Criminal Application No.2947/2013 to consider if there is material for grant of leave in the interest of justice.

2. As far as the question of delay is concerned, the

application says that, certified copies were received on 7.3.2012 and the A.P.P. forwarded opinion to Law & Judiciary Department on 20.4.2013. The delay condonation application does not state as to why so much time of more than one year was required just to give opinion by the A.P.P. The delay is not satisfactorily explained. Delay does not deserve to be condoned.

3. Even the delay was to be condoned, if the Criminal Application for leave is considered, it can be seen from the judgment as well as the copies of evidence which the learned A.P.P. is having, that there was civil dispute between the parties pending. The complainant once stated that he did not know if there was dispute pending in the Court regarding encroachment. Subsequently, however, he admitted that he was defendant in such matter. Keeping this in view, it is to be appreciated that evidence in this matter was that of only the complainant against the accused persons and the trial Court found that the other eye witnesses had really reached the spot after the incident. In para 15 of the judgment, the trial Court has concluded after discussing the evidence that, at the time of alleged incident, only the accused and complainant were there. The alleged instruments by which the injury is said to have been caused, were not seized. Considering the evidence of doctor, the trial Court held

probability of the injuries by fall. The trial Court appreciated the evidence and came to the conclusion that the witnesses were not reliable so as to convict the accused.

4. Looking to the judgment of the trial Court and keeping in view the evidence, the learned A.P.P. is unable to show that the reasonings recorded and findings arrived at by the trial Court are not possible view.

5. In this view of the matter, even if the delay was to be condoned, the leave is not necessary to grant.

6. Criminal Application No.2948/2013 and Criminal Application No.2947/2013 are rejected.

(A.I.S. CHEEMA, J.)