

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

CRIMINAL WRIT PETITION NO. 854 OF 2014

Dattatraya S/o Rambhau Pawar

Age : 37 Yrs., Occ. : Nil,

R/o : Yusuf Wadgaon, Tq. Kaij,

Dist. : Beed.

..... PETITIONER

V E R S U S

1. Sharda W/o Datta Pawar
Age : 26 Yrs., Occ. Household,
R/o : Pathar Gavan, Tq. Pathri,
District : Parbhani.

2. Rohit S/o Datta Pawar
Age : Minor.

3. Pooja S/o Datta Pawar
Age : Minor.
R – 2 & 3 are minor, u/g of
R -1 Sharda W/o Datta Pawar.

..... RESPONDENTS

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Mr. M.H.Shaikh h/f Mr. V.R.Dhorde,
Advocate for the Petitioner.

Mr. M.P.Kale, Advocate for R – 1 to 3.

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CORAM : V.M.DESHPANDE, J.

DATE OF JUDGMENT : 5th MARCH, 2015

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ORAL JUDGMENT :

1. Rule. Rule is made returnable forthwith. By consent of the parties, heard Mr. M.H.Shaikh holding for Mr. V.R.Dhorde, the learned counsel for the petitioner and Mr. M.P.Kale the learned counsel for respondent Nos. 1 to 3 finally.

2. Learned counsel for the petitioner submitted that the order passed by the learned revisional Court dismissing his application for condonation of delay in preferring the Revision is erroneous in as much as, according to him, opportunity ought to have been given to the petitioner to submit his case through Revision. The said submission is vehemently opposed by Mr. M.P.Kale, the learned counsel for respondent Nos. 1 to 3 and submitted that the learned revisional Court was right in not exercising discretion in favour of the present petitioner for condoning the delay that occurred in filing the Criminal Revision Application.

3. The application u/s 125 of the Code of Criminal Procedure was filed by the present respondent Nos. 1 to 3 before the learned Judicial Magistrate First Class, Pathri which was registered as Criminal Application No. 30/2009. The said application was allowed partly by the learned Magistrate vide Judgment and Order dated 19/10/2010, whereby the petitioner was directed to pay maintenance @ ₹ 1500/- [Rupees One Thousand Five Hundred] for respondent No. 1 and ₹ 1,000/- [Rupees One Thousand] to each of the respondent Nos. 2 and 3 per month.

4. The said order was carried in Revision by the present petitioner. However, there was delay of about 10 months and 9 days in preferring the said Revision. The reason which is ascribed in the application for condonation of delay, in the strict sense, can not be a reason for condoning the delay since, according to the present petitioner, due to his vice of drinking, he did not attend the Court before the learned Magistrate and he did not participate.

5. Be that as it may, opportunity should be granted to the present petitioner. The rationale behind this

is, though a person commits mistake, opportunity should be granted to him to correct himself. The petitioner, therefore, deserves one chance, since reformation to the personality should be the aim. In that view of the matter, the delay in filing the Revision can be condoned.

6. One reason for this is also that the petitioner voluntarily stated through his counsel that he is ready to deposit ₹ 30,000/- [Rupees Thirty Thousand] before the learned revisional Court. Thus, he has shown his bonafides. In that view of the matter, I propose to pass the following order :

(1) The present Criminal Writ Petition is allowed.

(2) The order dated 22/05/2014 passed by the learned Extra Joint Ad-hoc Additional Sessions Judge, Parbhani in Misc. Criminal Application No. 35/2011 rejecting the application for condonation of delay in filing the Criminal Revision is hereby set aside subject to deposit of ₹ 30,000/- [Rupees Thirty Thousand] by the

petitioner before the revisional Court within a period of 15 days from today.

- (3) Deposit of amount of ₹ 30,000/- before the revisional Court shall be condition precedent. If the amount of ₹ 30,000/- is not deposited as directed, then the order passed by the learned Extra Joint Ad-hoc Additional Sessions Judge, Parbhani dated 22/05/2014 shall revive. If the amount of ₹ 30,000/- is deposited, the respondents will be entitled to withdraw the said amount and for that they will not require to file any separate application before the revisional Court.

- (4) Rule is made absolute.

[V.M.DESHPANDE, J.]

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