

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

Criminal Application No.5482 Of 2014.

The State of Maharashtra
Through P.S.I., Police Station, Chakur, Dist. Latur.

Versus

Vishwanath Sambhaji Suryawanshi & Ors.

Appearance =>

Mr. S.A. Ambad, Additional Public Prosecutor for the State of Maharashtra.

Mr. N.D. Kendre, Advocate for Respondent Nos. 1 and 2.

CORAM : V.M. DESHPANDE, J.

DATE : 29th JANUARY, 2015.

P.C. :-

Heard Mr. S.A. Ambad, learned Additional Public Prosecutor and Mr. N.D. Kendre, learned counsel for Respondent Nos. 1 and 2.

[2] The learned Chief Judicial Magistrate, Latur vide his Judgment and order dated 4th December, 2012 acquitted Respondent Nos. 1 and 2 in Regular Criminal Case No.155/2004. The State chose to prefer an appeal before the Appellate Court. However, the said Appeal was barred by limitation, as there was delay of 179 days. Therefore, application for condonation of delay was moved by the State. It was registered as Criminal M.A.No. 45/2013 and was on the file of the learned Sessions Judge, Latur.

[3] Though the judgment of acquittal was passed on 4th December, 2012, application for obtaining certified copy of the Judgment was given on 16th July, 2013. Thereafter, matter was processed and Appeal was preferred.

[4] It was expected from the State to give sufficient cause for not preferring the appeal within stipulated time. In the present case though the Judgment of acquittal was passed on 16th December, 2012, the application for obtaining certified copy was made on 16th July, 2013. Further there is no explanation is given as to why the application for certified copy was not made immediately or within the period of limitation.

[5] The reasons for not filing the appeal is appearing in paragraph No.3 of the Application for condonation of delay, which is reproduced herein under :-

“ That, as there is hectic schedule of work of C.J.M. Court, Latur, the A.P.P. has not sent the appeal proposal within time, therefore, the delay has been caused to prefer the appeal in the Hon’ble Court.”

[6] There cannot be distinction between private litigant and the State, in so far as pursuing the legal remedy. When limitation is provided, it is expected that Appeal and/or proceedings has to be filed within the period, as prescribed. Delay can be condoned, if party who seeks condonation is able to satisfy the court that the said party had sufficient cause for not preferring the appeal within the time prescribed to file the same. The party must demonstrate that reasons for approaching the court belatedly, were beyond his control.

[7] In the present case, the only reason that is attributed for delay is hectic schedule of work of C.J.M. Court, Latur and the concerned A.P.P. used to engaged in the court work till 6.00 p.m., as mentioned in paragraph No.2 of the Application. Besides this, there is no reason given in the Application.

[8] The learned Sessions Judge, Latur has correctly observed that, busy schedule or the assignment of heavy work to the concerned A.P.P. as a result he had no time, therefore, he could not submit the proposal for sanction to file an appeal, cannot be a ground to condone the delay.

[9] The Public Prosecutor is having great responsibility in as much as he is one of the Key person in the administration of criminal justice. The Public Prosecutor cannot be a casual one while dealing with the State matters.

[10] I see no reason to upset the well reasoned order passed by the learned Sessions Judge, Latur in Criminal M.A.No.45 Of 2013. No case is made out for condonation of delay. Hence, Criminal Application is rejected.

(V.M. DESHPANDE, J.)