

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

CRIMINAL APPLICATION NO. 6349 OF 2013

The Provident Fund Inspector,
Jalgaon.

...Applicant

versus

1. M/s Nagaon Education Society's
Ganagamai Polytechnic College,
Tal. Dhule, District : Dhule.
Through its Chairman Respondent No. 2
2. Shri Dattatraya Waman Patil,
Chairman,
Age: 74 years, Occu. Business,
R/o : Ganagamai Polytechnic College,
Nagaon, Tal. Dhule, District : Dhule.
3. Shri Sanjay Onkarnath Dahad,
Principal,
Age: 54 years, Occu. Business,
R/o : Ganagamai Polytechnic College,
Nagaon, Tal. Dhule, District : Dhule

...Respondents

.....

Mr. K.B. Choudhari, Advocate for Applicant
Mr. V.B. Jadhav, Advocate holding for
Mr. A.V. Hon, Advocate for respondents No. 1 to 3.

.....

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

DATED : 10th FEBRUARY, 2015

Order :-

1. Heard learned counsel for applicant and learned
counsel for respondents.

2. Learned counsel for applicant is submitting that there has been delay in filing the Criminal Application bearing No. 6350 of 2013 under Section 378(4) of the Code of Criminal Procedure (hereinafter referred to as "Cr.P.C." for short). According to learned counsel, the applicant, under misconception, had filed revision under Section 397 of the Cr.P.C. against impugned order. According to him, impugned order of the trial court in STCC No. 429 of 1997, had effect of acquittal and correct remedy was to file an appeal in the High Court, and as such, there has been delay. It is submitted that the matter relates to recovery of provident fund regarding which complaint was filed against respondents – accused. There is delay as matter takes time in the departments, and same may be condoned.

3. Learned counsel for respondents has strongly opposed the application. He refers to contents of the application to claim that there are no grounds to condone the delay. The delay is not properly explained. According to him, the grounds mentioned are not proper to condone the delay.

4. Going through the application as well as Criminal Application No. 6350 of 2013 tendered under Section 378(4) of the Cr.P.C. and keeping in view that the matter relates to provident fund, in the interest of justice, delay needs to be condoned.

5. For the reasons recorded above, in the interest of justice, the application is allowed. Delay stands condoned.

6. Present application stands disposed of accordingly.

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

MTK