

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

**CRIMINAL APPLICATION NO.6746 OF 2015
IN
CRIMINAL WRIT PETITION NO.125 OF 2014.**

**Gulabrao Baburao Deokar Vs. Police Inspector, City Police
Station, Jalgaon and another.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.M.S.Deshmukh, advocate for the Applicant.
Mr.D.R.Kale, A.P.P for the State.
Mr.N.J.Patil, party-in-person.

**CORAM : S.V.GANGAPURWALA AND
V.K.JADHAV, JJ.
Date : 16.12.2015.**

PER COURT :

1. Heard.
2. This is an application seeking restoration of the Writ Petition No.125/2014, by setting aside the order dated 16.9.2015. There is delay of 59 days in filing the present application. Mr.Deshmukh, learned counsel submits that at the time when the petition was filed, the petitioner was behind the bars and as such even as per rules the petition is not required to be verified. He was released from the jail in January 2015, however, office has not

raised any objection about non-verification of the petition. The learned counsel submits that the applicant be allowed to remove the said irregularity and the petition be heard on merits.

3. Mr.Patil, party-in-person opposes the application and submits that though when the petition was filed, the petitioner was behind the bars, however, he was released from jail on 7.1.2015 and the petitioner could have very well removed the objection. The same was not done. As such this Court has rightly dismissed the petition vide order dated 16.9.2015. There is delay of 57 days in filing the application. No proper explanation is given.

4. We have considered the submissions. No doubt, after the petitioner was released from jail, he could have sworn affidavit. It is also a fact that when the petition was filed, the applicant was behind the bars, naturally, the petition could not have been verified at that time. It appears that office also had not raised any objection about non-verification of the petition.

5. It is stated that although the order was passed on 16.9.2015, the applicant was attending Sessions Case at Dhule with respect to other crime.

6. The reasons mentioned in the application are not controverted by filing any affidavit.

7. For the delay that has been caused, the Respondent No.2 can be compensated.

8. In light of the above, the application is allowed in terms of prayer clauses B and B-1 on condition that applicant removes the objection and verifies the petition as per the Rules within (1) one week. So also shall pay cost of Rs.2,000/- (Rupees two thousand) to the party-in-person within a period of one (1) week from today. The cost to be paid personally to the Respondent No.2 or be deposited in the Court.

(V . K . JADHAV , J .)

(S . V . GANGAPURWALA , J .)

Dt.16.12.2015.
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