

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

MISC.CRI.APPLICATION NO. 627 OF 2015 IN APP NO.626 OF 2015
IN
CRI.APPLICATION (APL) NO.395 OF 2011.

Subhash s/o M.Patil ..vs.. State of Mah.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.R.L.Khapre, Adv. for the applicant.
Mr.S.S.Doifode, APP for the State.

CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.
DATED : JULY 8, 2015.

Prayer is to condone the delay of 422 days in moving application for restoration. In Misc.Criminal Application No.626 of 2015 prayer is to recall order dated 27th of March, 2014 and to restore Criminal Application (APL) No.395 of 2011. On that day as nobody appeared for applicant, said Criminal Application No.395 of 2011 came to be dismissed.

The reasons for absence are given in paragraph no.3 of the application. As order of dismissal came to notice belatedly, there is delay. We do not see any malafides.

We, therefore, condone the delay and recall order dated 27th of March, 2014. Accordingly Criminal Application No.395 of 2011 is restored back to file.

Considering the fact that Criminal application No.395 of 2011 is restored back to file and the order granting stay is operating, this Court expressed that this Criminal application shall be heard finally after restoration. Advocate Shri Khapre is also ready to argue the matter. Learned APP points out that as the matter has been dismissed

for default in 2014, he does not have all case papers. He is seeking some time to obtain the papers and to assist the court.

In criminal Application (APL) No.395 of 2011 interim orders were granted by this Court on 27th of November, 2013 while issuing Rule after hearing the parties. Thus, further proceeding in RCC No.3057 of 2009 pending on the file of Judicial Magistrate (F.C.), Nandura were stayed. Advocate Khapre submits that the offence complained of is only technical in nature. According to him, the situation which prevailed on that date or on 27th of March, 2014 and today is also same.

In this situation, we restore that Criminal Application.

List the Criminal Application No.395 of 2011 for final hearing in the week commencing 20th of July, 2015.

JUDGE

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