

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

Criminal Application [APPA] No.472 of 2014

(M/s. Hindustan Insecticides Ltd. vs. Sunil Choudhari)

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Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

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Court's or Judge's Orders

CORAM : PRASANNA B. VARALE, J.

DATE : FEBRUARY 18, 2015.

Heard Mr. A.J. Thakkar, the learned Counsel for the applicant and Mr. S.A. Sahu, the learned Counsel for the non-applicant sole.

By the present application, the applicant-M/s. Hindustan Insecticides Limited is before this Court seeking condonation of delay of 683 days caused in filing the appeal as well as leave to file appeal against the judgment and order passed by the learned Judicial Magistrate First Class, Nagpur in S.C.C. No.763/2005, dated 25/07/2012.

Perusal of the record shows that the applicant/complainant approached the learned Magistrate by filing a complaint case bearing S.C.C. No.763/2005 under Section 138 of the Negotiable Instruments Act read with Section 420 of the Indian Penal Code. The learned Magistrate (Special Court for the matters relating to Section 138 of the Negotiable Instruments Act) on consideration of the factual matrix as well

as on the backdrop of the fact that the complainant failed to take any step against the accused for two years, passed the judgment and order thereby acquitting the non-applicant/accused.

Mr. Thakkar, the learned Counsel for the applicant invited my attention to the grounds raised for seeking condonation in the present application reflected in paragraphs 3 to 8. The grounds are, firstly the shifting of the Regional Office and secondly the administrative difficulties. It is stated in the application that the fact of the order passed by the learned Magistrate came to the knowledge of the learned Counsel and accordingly the learned Counsel applied for the certified copy on 10/10/2012 and the same was received on 29/10/2012. The applicant is silent on the aspect of receiving the knowledge by the learned Counsel.

Be that as it may, a statement is made in the application that the Regional Office at Nagpur was transferred to Akola in the year 2010, which was later on again shifted to Nagpur in the month of July, 2012. There is nothing on record that these facts were intimated to the Counsel, who was representing the applicant. Moreover, this aspect of shifting the office during the period 2010 to 2012 is inconsequential for the reason that the order of the Magistrate was passed in the year 2012 and the delay thereafter is reflected in paragraphs 6 and 7 of the application. It is stated that the file could not be traced in

the office till March, 2013. Thus, this vague statement fails to show that there was any *bona fide* attempt made by the applicant to search out the papers. This is the application deals with an approval granted by the Head Office vide communication dated 07/05/2013. Then it is stated in paragraph 8 that the complete record was not received from the Head Office. The application is filed on 06/08/2014. There is nothing on record in the application to show that what steps were taken from 07/05/2013 to 06/08/2014, if the record was not received from the Head Office. It was the responsibility of the Regional Office to take necessary steps for seeking the record from Head Office. What reflects from the application is, the Regional Office was not at all bothered and moved with Snail pace even though the Head Office granted approval on 7th May, 2013.

Considering all these aspects, the application miserably fails to show any justifiable and *bona fide* reason to condone an exorbitant delay of 683 days. The application thus, being wholly meritless, deserves to be rejected and the same is accordingly rejected.

JUDGE

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