

(1)

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

**CRIMINAL APPLICATION NO. 6228 OF 2015
IN
CRIMINAL REVISION APPLICATION NO. 226 OF 2015**

Mohammad Sadiq Shaikh Idris,
Age: 28 years, Occu: Labour,
R/o. Shop No. 450, Lalpatti,
Sharstrinagar, Vikroli(w),
Parkside, Mumbai

..APPLICANT

VERSUS

1. Asma Zarin w/o Mohammad Sadiq,
Age: 23 years, Occu: Private Job,
R/o Baitul Farukh, H.No. 1208,
Deshmukh Galli, Main Road,
Bhokardan, Post Bhokardan,
Tq. Bhokardan, Dist. Jalna

2. Ayesha d/o Mohammad Sadiq,
U/g. of the respondent No. 1,
Age: 4 years, Occu: Nil,
R/o Baitul Farukh, H. No. 1208,
Deshmukh Galli, Main Road,
Bhokardan, Post Bhokardan,
Tq. Bhokardan, Dist. Jalna

..RESPONDENTS

Mr R. H. Wagh, Advocate for applicant;
Mr A. S. Deshpande, Advocate for respondents

CORAM : N.W. SAMBRE, J.

DATE : 6th April, 2016

ORAL ORDER :

The applicant-husband suffered the judgment and order dated 20th January, 2014, passed by the learned Principal Judge, Family Court, Aurangabad, in Petition No. E-95/2013 ordering payment of maintenance

(2)

of Rs. 5,000/- p.m. to wife and Rs. 3,000/- p.m. to daughter i.e. total Rs. 8,000/- p.m., to paid from 29th April, 2013. The applicant was also ordered to pay amount of Rs. 10,000/- towards expenses.

2. After the order came to be passed, the applicant-husband has not questioned the same immediately and has moved present application seeking condonation of delay of 579 days, caused in preferring Criminal Revision Application.

3. The learned Counsel appearing on behalf of the applicant-husband, while trying to make out a case for condonation of delay, has taken me through the grounds as are raised in the application for condonation of delay. He would then submit that date of marriage i.e. 28th April, 2010 is admitted and fact remains that applicant-husband is residing at Bombay for his profession. He would then submit that the crime bearing No. 231 of 2013 is already registered against the applicant and his family members by respondent No. 1 at Mumbai on 16th June, 2013 for the offences punishable under Sections 498(A), 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 3 and 4 of Dowry Prohibition Act.

4. So as to support the claim for condonation of delay, learned Counsel would urge that, since the applicant is residing at Mumbai, he had no occasion to visit to Aurangabad but for attending the Court proceedings and because of his ill health, he could not file the proceedings within time. According to him, on 6th July, 2012, he suffered an accident and was

(3)

admitted in hospital at Ghatkopar, Mumbai, which is one of the reasons provided for not filing the proceedings within time. According to him the application needs to be allowed by condoning the delay.

5. On merits, applicant was called upon to show his *bona fides* by depositing the amount before this Court, which is due and payable since 29th April, 2013. It is claimed by the present applicant that he has already deposited maintenance amount of Rs. 98,000/-. Then he was called upon to deposit due amount of maintenance and the matter was adjourned at his behest for the same, he showed inability to deposit the same, claiming that he is a labour and not in a position to comply with the order. He would then stated that, he be granted more time to discuss with his family members as to how much amount could be deposited in the Court.

6. The claim is opposed by the learned Counsel appearing on behalf of the respondents, who has invited attention of this Court to the conduct of the present applicant i.e. avoiding execution. Evidence is brought to my notice that there was bailable warrant issued against him which remained unexecuted, as applicant's whereabouts are not available and his brother had refused to disclose the details about his residence to the police officer. It is also noted that the applicant is not complying with the order passed under Protection of Women from Domestic Violence Act, 2005.

7. The delay of 579 day caused in filing Criminal Revision Application as is sought to be condoned is at all not explained and application is hopelessly time barred. The application also lacks *bona fides*.

(4)

8. In view of above, no case for condonation of delay is made out, particularly having regard to the conduct of the present applicant. Criminal Application fails and stands dismissed.

(N.W. SAMBRE, J.)

sjk