

(1)

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

CRIMINAL REVISION APPLICATION NO. 97 OF 2016

Usha Shivajirao Panzade

..APPLICANT

VERSUS

The State of Maharashtra & ors.

..RESPONDENTS

Mr R. B. Narwade Patil, Advocate for applicant;
Mr S. J. Salgare, Addl. Public Prosecutor for respondent No. 1;
Mr Quadri Taher Ali, Advocate for respondent No. 2, 3 and 5;
Mr U. D. Dalvi, Advocate for respondent Nos. 4 and 6

CORAM : N.W. SAMBRE, J.

DATE : 5th July, 2016

ORAL ORDER :

Heard.

2. Regular Criminal Case No. 108 of 2012, initiated by the complainant before learned 7th Judicial Magistrate First Class, Nanded, resulted into acquittal of respondent Nos. 2 to 6 – accused from offences punishable under Sections 498-A, 494, 109 read with Section 34 of the Indian Penal Code, vide Judgment and order dated 9th June, 2014.

3. The appeal, which was time barred, preferred by the applicant against said acquittal, came to be dismissed for want of prosecution by the learned Additional Sessions Judge -1, Nanded, vide order dated 7th April, 2015, as the applicant had failed to pay process fees for the period of more than six months.

(2)

4. Learned Counsel appearing on behalf of the applicant submits that, apart from claim of the applicant, she, being a patient of Lumbar spondylitis, she was unable to travel to Nanded and as such, the matter came to be dismissed, resulting into acquittal of the respondents-accused.

5. Learned Counsel appearing on behalf of the respondents-accused opposed the claim on the ground that the acquittal is based on failure of the applicant to prove the accusations and the appeal, which was time barred, was rightly ordered to be dismissed by the learned Additional Sessions Judge -1, Nanded.

6. Having bestowed my thoughts to the submissions made, it is noted that the applicant was pursuing her appeal at Nanded, though she is not permanent resident of that place. In support of her claim, she has produced medical certificate on record.

7. In the above background, in my opinion, one chance is required to be granted to the applicant to pursue her appeal.

8. In view of above, impugned order dated 7th April, 2015, passed by the learned Additional Sessions Judge-1, Nanded, below Exh. 1 in Other Misc. Criminal Application No. 43 of 2014, is hereby quashed and set aside. Criminal Appeal stands restored to the file of the said Court.

(3)

9. The applicant and respondents – accused undertake to appear before the learned Court below in the said appeal on 20th July, 2016.

10. The above referred order is subject to payment of cost of Rs. 1,500/- to be paid before the learned Court below, which will be in proportion of Rs. 300/- to be paid to each of the respondents-accused. Payment of cost is condition precedent for hearing of the application, which should be paid before hearing.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

sjk