

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

CRIMINAL APPLICATION (APPR) NO.42 OF 2016

IN

CRIMINAL REVISION NO.71 OF 2016

Vinod Madhukar Rathod

..vs..

State of Mah., thr PSO Digras, District Yavatmal

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

Court's or Judge's Order

Shri R.J. Shinde, Advocate for the Applicant.

Shri K.R. Lule, Addl.P.P. for the non-applicant/State.

CORAM : Z.A. HAQ, J.

DATED : APRIL 29, 2016.

**Heard Shri R.J. Shinde, Advocate for the
applicant and Shri K.R. Lule, Additional Public
Prosecutor for the non-applicant/State.**

**Accepting the reasons stated in the
application, the delay of 167 days in filing the revision
to challenge the order passed by the Sessions Court
dismissing the appeal filed by the applicant for want of
prosecution, is condoned.**

The application is allowed accordingly.

CRIMINAL REVISION NO.71 OF 2016

**The criminal revision is taken up for
hearing.**

Heard.

The applicant came to be convicted for the

offence punishable under Section 354 of the Indian Penal Code by the learned Magistrate by the judgment dated 11.11.2011. This judgment was challenged by the applicant before the Sessions Court in Criminal Appeal No.19 of 2011 which was admitted and the sentence imposed by the learned Magistrate was suspended. The learned Additional Sessions Judge passed the order dated 6.7.2015 dismissing the appeal filed by the appellant in default for want of depositing the paper-book charges.

Relying on the judgment given in the case of Md. Sukur Ali ..vs.. State of Assam reported in AIR 2011 SC 1222 and the judgment given in the case of Bani Singh and others ..vs.. State of U.P. reported in AIR 1996 SC 2439(1), the learned Advocate for the applicant has submitted that the impugned order passed by the Sessions Court is unsustainable and has to be set aside.

Though the learned Additional Public Prosecutor has opposed the revision application, he has not been able to controvert the legal issue raised by the learned Advocate for the applicant.

Considering the proposition laid down in the above referred judgments, the following order is passed:-

The order passed by the learned Additional Sessions Judge in Criminal Appeal No.19 of 2011 on 6.7.2015 is set aside.

The Criminal Appeal No.19 of 2011 is restored.

Consequently, the *interim* orders passed in the appeal are also restored.

The appellant undertakes to deposit the paper-book charges before the Sessions Court within one month. If the paper-book charges are not deposited within one month, this order shall stand recalled. If the paper-book charges are deposited, the Sessions Court shall decide Criminal Appeal No.19 of 2011 on merits according to law.

The Criminal Revision Application is allowed in the above terms.

JUDGE

!! BRW !!