

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [APPP] No. 780 of 2016
IN
Criminal Application [APPP] No. 779 of 2016
IN
Criminal Application [APPP] No. 477 of 2016
IN
Criminal Application [APL] No. 15 of 2016
[Prabhakar Baburao Dadmal Vs. State of Mah. & another]

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

Court's or Judge's orders

Mr. V.K. Gulhane, Adv., for the Applicant.
Mr. V.A. Thakre, APP for respondent no.1.

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**CORAM : B. R. GAVAI AND
V.M. DESHPANDE, JJ.**

DATE : 27th June, 2016

Criminal Application No. 780 of 2016 is for condonation of delay in moving an application for restoration of Criminal Application No. 477 of 2016, while the Criminal Application No. 779 of 2016 is for setting aside the order dated 20th April, 2016 and for restoration of Criminal Application No. 477 of 2016.

The perusal of the record would reveal that the counsel for the applicant was consistently negligent in prosecuting the present proceedings.

The perusal of the order dated 15th March, 2016 would reveal that a conditional order was passed to the effect that if the applicant fails to remove office objection within a week, the application shall stand dismissed in default.

The perusal of the order dated 12th April, 2016 would reveal that since the applicant failed to remove office objections, the Criminal Application stood disposed of automatically and as such Criminal Application No. 477 of 2016 was filed for restoration of main application. When the matter was listed on 12th April, 2016, the counsel did not appear before the Court, though it was called out twice. However, in order to give one more opportunity, the matter was directed to be listed after one week in the caption of “dismissal”.

Again, when the matter was listed on 20th April, 2016, none appeared. As such, left with no other alternative, we dismissed the application for want of prosecution.

Now, the aforesaid two applications are filed, contending therein that the counsel for the applicant was out of India and as such the aforesaid orders came to be passed. We make it clear that we

would very well be justified in rejecting the applications on account of total negligent approach on the part of counsel for the applicant.

However, it is a settled law that for lapses on the part of counsel, the litigant should not suffer. In that view of the matter, we are inclined to allow the applications rather than rejecting the same, but subject to payment of cost of Rs.15,000-00 [rupees fifteen thousand only] to be made by the counsel from his own purse, to the High Court Bar Library.

We make it clear that since we are ordering payment of cost on account of negligence of the Adv., for the applicant, the same shall be personally paid by the lawyer concerned and it is further made clear that the applicant shall not pay the cost. The Registry is directed to communicate this order to the applicant, and in particular the part of this order about payment of cost by the Advocate for the applicant and not the applicant, in Marathi, so that he has no confusion about the orders passed by this Court.

Judge

Judge

