

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO. 530/2015

IN

CRIMINAL APPEAL NO...../2015

(Naresh s/o Pocham Dubaswar vs. State of Maharashtra)

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

Court's or Judge's order

.....
Mr. M.P. Lala, Advocate (appointed) for applicant
Mr. N.B. Jawade, APP for respondent -State

CORAM: A.B.CHAUDHARI, J.

DATED : 6th January, 2016.

Heard.

By this Application, the applicant seeks condonation of delay of five years in filing the Appeal against the judgment and order dated 15.4.2010 passed by the learned Sessions Judge, Wardha in Sessions Trial No. 12/2009 convicting the applicant for an offence punishable under Section 307 of the Indian Penal Code and sentencing him to suffer imprisonment for a period of ten years. This Appeal was filed by Mr. M.P. Lala, Advocate, who was appointed through Legal Aid Committee, Nagpur.

The Appeal came to be filed on 19.08.2015. The *Sheristedar* of this Court was asked to take instructions from the Office of the Establishment Officer, Legal Aid Committee and he found that in this Appeal, it was necessary to have information from the

prison, about the appellant. The Superintendent, Nagpur Central Prison, has informed vide communication dated 5.1.2016 that the appellant/prisoner expired in the prison itself on 8.1.2015 at 12.15 hours, while taking treatment in Medical College and Hospital, Nagpur.

It clearly shows that the prisoner died about a year back. The Superintendent of Nagpur Central Prison did not bother to inform the Registry of this Court or the Legal Aid Committee, about the fact of death of the prisoner. In my opinion, it is nothing but a systemic failure. As a matter of fact, when the Appeal is pending in this Court, the Jailor ought to have informed the Registry of this Court or the Legal Aid Committee about such unfortunate happening, in respect of prisoners. This is the second such incident found by this Court and, therefore, makes the following order :-

ORDER

a) Criminal Application No. 530/2015 for condonation of delay as well as Appeal, both are dismissed as abated and also having been rendered infructuous.

b) The Director General of Prisons, Mumbai is directed to take note of the fact that the Jailors in various jails in the State of Maharashtra do not bother to inform the Registry of this Court or the Appellate Court or the District Court, where the Appeals are pending, in respect of such prisoners, like the one at hand and, therefore, he is directed to issue a Circular

on urgent basis to all the Jailors, to immediately communicate the Registry of the Benches of the High Court or the District Court or the Legal Aid Committee, in respect of death of such prisoners.

c) The learned APP is directed to inform the Director General of Prisons, on telephone, about this order; so also send him this order, by fax.

d) The Director General is directed to respond to this order on or before 14.1.2016.

Stand over to 15th January,2016.

JUDGE

sahare