

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO.754 OF 2016
IN CRIMINAL APPEAL NO. _____ OF 2016
(Sumit Bhimrao Shirsat vs. The State of Maharashtra)

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

Shri S.I. Jagirdar, Advocate for applicant.
Shri N.B. Jawade, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : DECEMBER 05, 2016

Issue notice to respondent.

Shri Jawade, learned Additional Public
Prosecutor waives notice for respondent.

This is an application for condonation of
delay of 350 days in preferring appeal against the
judgment dated 6/10/2015 passed by Additional
Sessions Judge, Akola whereby applicant came to be
convicted for the offence punishable under Section 363
of Indian Penal Code and sentenced to suffer rigorous
imprisonment for two years and to pay fine of Rs.500/-,
in default to suffer rigorous imprisonment for three
months as also for the offence punishable under
Section 6 of the Protection of Children from Sexual
Offences Act and sentenced to suffer rigorous
imprisonment for ten years and to pay fine of Rs.2000/-
and in default, to suffer rigorous imprisonment for six
months.

The ground put forth by applicant for

condonation of delay is his poor financial condition, due to which he could not prefer appeal within stipulated period.

For the grounds mentioned in para no.6 of the application and in view of settled legal position that refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated, as against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties and also that, “every day's delay must be explained” does not mean that pedantic approach should be made. Why not every hour's delay, every second's delay ? The doctrine must be applied in a rational, common sense and pragmatic manner as per established legal principles. Application is, therefore, liable to be allowed in the interest of justice.

The delay caused in preferring appeal is condoned. The application is thus allowed.

CRIMINAL APPEAL NO. _____ OF 2016

Heard learned Counsel for both sides.

Admit.

Call R & P.

JUDGE

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