

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 184 OF 2006

Manohar s/o. Nana Deshmukh,
Age 76 years, Occu. Agriculture,
R/o. Ranjani, Taluka Ghansawangi,
District Jalna.

....Petitioner.

Versus

1. The State of Maharashtra
2. Damu s/o. Ramji Randhe,
Age 48 years, Occu. Agriculture,
R/o. Ranjani, Taluka Ghansawangi,
District Jalna.
3. Premchand s/o. Jawaharmal Bhandari,
Age 50 years, Occu. Agriculture,
R/o. Ranjani, Taluka Ghansawangi,
District Jalna.

....Respondents.

Mr. R.M. Deshmukh, Advocate for petitioner.

Mr. S.J. Salgare, APP for State.

CORAM : T.V. NALAWADE, J.
DATED : 18th January, 2017.

ORAL JUDGMENT :

1) The petition is filed to challenge the judgment and order of Criminal Revision No. 141/2005, which was pending in the Court of learned Additional Sessions Judge, Jalna. The revision was filed to challenge the order of Judicial Magistrate, First Class, Ambad by the present respondents Damu Randhe and Premchand Bhandari. The Sessions Court has allowed the revision by holding that the complaint was not filed within the

prescribed period of limitation as provided under section 468 of Criminal Procedure Code. The learned counsel for petitioners and the learned APP are heard.

2) The F.I.R. for offences punishable under the provisions of the Protection of Civil Rights Act and Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act and for other offences was given on 6.9.2000. In the said case, accused were acquitted on 14.7.2003. Private complaint came to be filed on 5.5.2003 for offences punishable under sections 499 and 500 r/w. 34 of Indian Penal Code. Issue process order was made by the learned J.M.F.C. on 6.5.2005.

3) In view of the provisions of sections 468 and 469 of Cr.P.C., the Sessions Court held that the limitation period given in section 468 of Cr.P.C. needs to be computed from the date of giving complaint, F.I.R. As the complaint was not filed within three years, the Sessions Court has allowed the revision and has dismissed the complaint by using the provision of section 468 of Cr.P.C.

4) The learned counsel for present petitioner, complainant of private complaint placed reliance on the observations made by the Apex Court in the cases reported as

2014 ALL SCR 309 [Mrs. Sarah Mathew Vs. The Institute of Cardio Vascular Diseases & Ors.] and **2014 ALL SCR 1831 [Udai Shankar Awasthi Vs. State of U.P.]**. In the first case, the facts involved were totally different. The Apex Court has laid down that if the complaint is filed before expiry of period of limitation in the Court of Magistrate then that date is relevant to ascertain as to whether the complaint was filed within time. It is laid down that if the Magistrate passes the order of issue process or taking cognizance subsequently, after the expiry of period of limitation, that date is not relevant. In the second case, the Apex Court has laid down that the provisions of section 473 of Cr.P.C. for condonation of delay can be used if the complaint is not filed in time. There is no dispute over these proposition. In the present matter, no such application for condonation of delay was filed. The learned counsel for present petitioner submitted that the period needs to be computed from the date of acquittal. This submission is not at all acceptable in view of the wording of section 469 of Cr.P.C. This Court sees no reason to interfere in the decision given by the Sessions Court. In the result, the petition stands dismissed.

Rule is discharged.

[T.V. NALAWADE, J.]

ssc/