

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

CRIMINAL APPLICATION (APPA) NO. 145 OF 2016

IN

CRIMINAL APPEAL _____ OF 2016

(Kewadu s/o. Namaji Narnaware...vs...Latifa d/o. Mohiyuddin Qureshi & Anr.)

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

Court's or Judge's orders.

Mr. N.D. Khamborkar, counsel for the appellant.
Mr. I.S. Charlewar, counsel for respondent 1.
Mr. A.V. Palshikar, APP for respondent 2.
Mr.M.B. Turankar, counsel for respondent 3.

CORAM: ROHIT B. DEO, J.

DATE: 5th DECEMBER, 2017.

Heard.

2 It is not in dispute that the applicant Kawadu Narnaware has not received the arrears of salary pursuant to the order dated 22.9.1999 passed by the School Tribunal in Appeal STN 93 of 1993, which is confirmed by this Court and thereafter by the Hon'ble Apex Court. However, what is in dispute is who is responsible for the applicant / employee not being paid.

3 Having given my anxious consideration to the reasons stated in support of prayer for condonation of delay and attending circumstances, I am inclined to condone the

delay of 232 days. I am exercising my discretion in the peculiar facts of the case, and particularly since the employee, who for whatever reason, is yet to receive the arrears of salary, despite being successful before the School Tribunal, this Court and the Hon'ble Apex Court.

4 The Criminal Application 145 of 2016 is allowed. Delay is condoned.

CRIMINAL APPEAL _____ OF 2016

Heard.

2 Although, there is no separate application seeking leave to appeal under section 378(4) of Code of Criminal Procedure filed, leave is sought vide prayer clause (a) which reads thus:

“grant leave to file appeal and thereby call for the record and proceedings from the file of Judicial Magistrate First Class, Bhiwapur, in Summary Criminal Case 8 of 2010”.

3 The appeal raises arguable issues. In any event, it is not in dispute that the applicant is yet to receive the arrears of salary despite having succeeded before the School

Tribunal, this Court and the Hon'ble Apex Court. Hence, leave to appeal granted.

4 Admit.

5 Shri. I.S. Charlewar and Shri. M.B. Turankar, the learned counsels waive notice on behalf of respondents 1 and 3, respectively. Shri. A.V. Palshikar, the learned APP waives notice for respondent 2.

6 Initiate action under section 390 of Criminal Procedure Code.

7 Filing of paper book is dispensed with.

8 Respondent 3 is personally present. Hence, bailable warrant is recalled.

9 The respondents 1 and 3 to remain personally present in the Court on the date of hearing.

10 Record and proceeding be summoned.

11 Let the appeal be listed for final hearing on 14.12.2017.

12 Hamdast granted.

JUDGE