

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

CRIMINAL APPLICATION (APL) NO.406 OF 2016

Vijay s/o Jawaharlal Darda

..VS..

Vishwas s/o Tukaramji Bhagat and ors

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

Court's or Judge's Order

Shri F.T. Mirza, Counsel for the applicant.
Shri C.R. Sharma, Counsel for non-applicant No.1.
Shri T.A. Mirza, Addl.P.P. for non-applicant No.3/State.

CORAM : P.N. DESHMUKH, J.

DATED : APRIL 5, 2017.

Heard.

None for non-applicant No.2 though served.

By consent, this application is finally
decided and disposed of.

This application takes exception to
impugned order passed by learned Principal District and
Sessions Judge refusing to condone delay of 236 days
caused in filing revision against order dated 18.2.2009
passed by learned Judicial Magistrate First Class issuing
process against applicant for the offence under Section
500 read with Section 34 of the Indian Penal Code.

.....2/-

It is submitted that non-applicant No.1 had instituted Summary Criminal Case No.5783 of 2008 in the Court of learned Judicial Magistrate First Class at Amravati against applicant for the offence under Section 500 read with Section 34 of the Indian Penal Code, whereby Magistrate's Court on 18.2.2009 had issued process against applicant. It is the case of applicant that till date he has not received summons, however on 9.11.2009 on getting knowledge of issuance of process against him entered his appearance before the Trial Court and challenged said order by preferring revision. However, Registry to learned Sessions Judge raised objection that revision is filed by causing delay of 236 days. According to applicant, while calculating delay, Registry had not considered fact of applicant's having knowledge of such order of issue process passed against him only on 9.11.2009, and contended that on applicant's preferring revision challenging order of issue process, application for condonation of delay filed with it, came to be rejected by impugned order.

During course of hearing, learned counsels appearing for the parties had submitted that provision of Section 7 of the Press and Registration of Books Act, 1887 along with ratio in the case of K.M. Mathew ..vs..

State of Kerala and another, reported at AIR 1992 SC 2206 (1) were not pressed into service before the District Court and had submitted that even record and proceedings are before the same Court and has thus contended that in view of above submissions, matter be remitted to the same Court, for due consideration afresh.

In view of submissions as aforesaid, application is thus liable to be allowed, as per the order below:

Case is remitted back to the file of learned Principal District Judge to consider the same, afresh in the light of Section 7 of the Press and Registration of Books Act, 1887 and the ratio in the case cited *supra*, if attracts in the present application, and decide the same preferably, within a period of three months from the date of receipt of this order.

Application stands disposed of in above terms.

JUDGE

!! BRW !!

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