

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

**CRIMINAL APPLICATION (APPA) NO. 646 OF 2016**

(Vidya Vinod Ingle...vs..Vinod Chintaman Ingle & ors.)

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

*Court's or Judge's orders.*

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Ms. S.V. Sohoni, counsel for the applicant.  
None for non-applicants.

**CORAM: ROHIT B. DEO, J.**

**DATE: 16<sup>th</sup> NOVEMBER, 2017.**

Heard.

The applicant is seeking condonation of delay in seeking leave under section 378(4) of the Code of Criminal Procedure to challenge the judgment and order dated 27.11.2012 in Regular Criminal Case 102 of 2007 delivered by Joint Civil Judge Junior Division Akot, by and under which the respondents (accused) are discharged. The complaint was instituted seeking to prosecute the accused under section 406 and 109 read with section 34 of the Indian Penal Code.

2           The reasons stated in the application for condonation of delay is that the applicant was not aware of the decision since the same was not intimated to her by her

counsel.

3           The reason is not entirely satisfactory. However,  
I am persuaded to allow the application in the interest of  
justice.

4           The averments in the application have gone  
unrebutted since no reply is filed by the non-applicants.  
Secondly, from a perusal of the judgment, it does appear  
that there is no finding recorded by the learned Magistrate  
that the accused and his family members are not in  
possession of the articles which according to the applicant  
are with them. The learned Magistrate has recorded a  
finding that the complaint is abortive or premature. The  
finding is that only because the articles are retained by the  
husband or his family, in the absence of any further proof  
that the same are misappropriated or misused, the offence is  
not made out, the learned Magistrate has discharged the  
non-applicants.

I would therefore, allow the application for  
condonation of delay in seeking leave to appeal under  
section 378(4) of the Code of Criminal Procedure subject of  
payment of cost of Rs. 500/-.

The application is allowed.

The application seeking leave under section 378(4) of the Code of Criminal Procedure be listed for hearing.

**JUDGE**

R S Belkhede, PA