

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

Criminal Application (APL) No.596 of 2017
(Satish s/o. Rameshlal Premchandani and Ors. vs. State and another)

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

Court's or Judge's Orders

Mr.S.S.Sanyal, Advocate for the applicants.
Mr.A.M.Deshpande, A.P.P. for Respondent No.1/State.
Mr.S.G.Karmarkar, Advocate for Respondent No.2.

CORAM : R. K. DESHPANDE &
M. G. GIRATKAR, JJ.

DATE : 15.1.2018.

Heard.

First Information Report is registered in the present case on 6.7.2017 vide Crime No.629 of 2017 at Police Station, Jaripatka, Nagpur pursuant to order dt.22.6.2017 passed under Section 156(3) of the Code of Criminal Procedure by the Magistrate. The applicants have an alternate remedy of filing revision under Section 397 of the Code of Criminal Procedure. The controversy is covered by decision of Division Bench of this Court in **Avinash s/o. Trimbakrao Dhondage .vs. The State of Maharashtra and another** reported in 2016 ALL MR (Criminal) 985. The operative order passed by this Court in the said decision is reproduced below :-

“a] Criminal Writ Petitions as well as the
Criminal Applications are all disposed of holding

that the applicants/petitioners in these applications/writ petitions are entitled to file revisions before the revisional Court to set up challenge in the revisions before the revisional Court. All the points raised in these applications/writ petitions on facts as well as in law are kept open.

b] The revisional Court shall consider the issue of limitation in the light of Section 14 of the Indian Limitation Act sympathetically in the matter of condonation of delay in filing the revisions.

c] The applications/writ petitions in which interim orders have been made by this Court shall continue to operate for another four weeks from today.

d] There shall be no order as to costs in these matters.

Ordered accordingly.”

In the present matter, therefore, we adopt the same view and permit the applicants to withdraw this application with liberty to approach the revisional Court under Section 397 of the Code of Criminal Procedure challenging the order passed under Section 156(3) of the Code of Criminal Procedure by the Magistrate and upon which the continuation of prosecution shall depend. The

revisional Court shall consider the issue of limitation in the light of Section 14 of the Indian Limitation Act sympathetically in the matter of condonation of delay in filing the revision; more particularly, when this application under Section 482 of the Code of Criminal Procedure is pending since 28.8.2017.

We extend the interim order passed by this Court on 1st September, 2017 for a further period of four weeks.

The applicants shall be at liberty to apply for such interim order as they think fit and proper. After expiry of period of four weeks, the interim order shall stand vacated.

The revisional Court shall decide the matter in accordance with law without being influenced by either withdrawal of this application or by grant of interim order by this Court.

No order as to costs.

JUDGE

JUDGE

**jaiswal*