

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

CRIMINAL APPLICATION (APPA) NO.57/2019
IN CRIMINAL APPEAL NO.765/2004 WITH
CRIMINAL APPEAL NO.711/2004 WITH
CRIMINAL APPEAL NO.2/2005 WITH
CRIMINAL APPEAL NO.50/2005 WITH
CRIMINAL APPEAL NO.157/2005 WITH
CRIMINAL APPEAL NO.437/2005 WITH
CRIMINAL APPEAL NO. 765/2004

Kishor Jumdamal Aswani .Vs. State of Maharashtra thr. PSO P.S.
Paratwada, Amravati.

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

Court's or Judge's orders.

Mr. M. K. Pathan, A.P.P. for applicant-State

CORAM : V.M. DESHPANDE, J.
DATED : JANUARY 17, 2019

This is an application moved by the State for extension of time to comply with judgment dated 17.10.2018. Criminal Appeal Nos.765/2004, 771/2004, 2/2005, 50/2005, 157/2005 and 437/2005 were decided by common judgment on 17.10.2018 by this Court. All the appeals were allowed. While allowing the appeals, the Court observed that the prosecution/ investigating agency has failed in its duty of seeing that the culprits are punished and justice is delivered to the victim and his family. As there is failure of justice because of the lapses on the part of the investigating agency the State was directed to pay compensation of Rs.5,00,000/- to the widow of victim i.e. Head Constable

Kalim. The Court further directed to file an affidavit in compliance of the order within three months.

The appeals were filed by accused persons and in those appeals, complainant was not a party. Therefore, the application could not be served by the State on anybody.

Heard Mr. Pathan, learned A.P.P. for the applicant-State. Mr. Pathan submitted that a proposal was forwarded by the Superintendent of police, Amravati for payment of Rs.5,00,000/- to the widow of victim and it is already sanctioned by the Special Inspector General of Police, Administration, Maharashtra State, Mumbai vide its communication dated 11.01.2019. After receipt of the sanction, Superintendent of Police, Amravati has already forwarded the bill for its sanction to the Treasury at Amravati vide communication dated 14.01.2019. However, the amount is yet to be cleared from the Treasury and it is pending with the Treasury Office. This is one of the reason.

Another reason for praying the extension is that the State of Maharashtra has decided to challenge the judgment dated 17.10.2018 only in respect of the payment of compensation before Hon'ble Apex Court. Mr. Pathan, learned A.P.P. has invited my intention on page no.5 of the application, which states that Special Leave petition (Criminal) No.2046/2019, State of Maharashtra .Vs. Kishor Aswani is filed before the Hon'ble Supreme Court and it will be listed in due course

of time. It is submitted that if the amount is paid then in that event the Special Leave Petition will render infructuous since only compensation is challenged.

In view of the aforesaid, I am of the opinion that the State has already shown its bona fides to pay compensation by forwarding necessary bill to the Treasury. However, the State is well within its right to challenge the judgment delivered by this Court and the Special Leave petition is filed, which is pending before the Hon'ble Apex Court.

In that view of the matter, in the interest of justice, instead of six months time as prayed for by the State, I grant three months time for payment of the compensation amount. This time will expire on 17.04.2019.

The application is disposed of.

JUDGE