

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

CRIMINAL APPLICATION NO. 315 OF 2019
IN
CRIMINAL APPLICATION NO. _____ OF 2019
IN
CRIMINAL APPEAL NO. _____ OF 2019

(State of Maharashtra Vs. Vitthal Nathhuji Nakhate)

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

Court's or Judge's orders.

Shri V.M. Maldhure, APP for the appellant-State.
Shri M.V. Rai, Counsel for the respondent.

CORAM : S.M. MODAK, J.
DATE : 21st NOVEMBER, 2019.

Heard learned Additional Public Prosecutor and
learned advocate Shri M.V. Rai for the respondent.

2. The Special Judge, Chandrapur acquitted the respondent vide judgment dated 30th November, 2017. The trial was conducted for the offence under the Prevention of Corruption Act.

3. There is a delay of 383 days in preferring an appeal. There is office procedure prior to preferring an appeal on behalf of the State. The Incharge Additional Public Prosecutor of the case before the trial Court has to give a proposal to Department of Law and Judiciary. After their opinion and that too in the positive, the instructions are given to the office of

Government Pleader to file an appeal. It is true that it takes time for moving the file from one office to another. Sometime, the papers are not sufficient and it take further time for obtaining the remaining documents. This has happened in this case and it is pleaded in the application.

4. The only period which is not explained is the period in between the date of judgment and the date of applying for certified copy. The judgment was delivered on 30th November, 2017 whereas the certified copy was applied on 20th April, 2018. It may be due to lack of decision making on the part of office of Anti Corruption Bureau at Chandrapur or on the part of Incharge Additional Public Prosecutor for want of instructions. However, due to that State cannot be deprived of challenging the judgment. The Government ultimately functions with the assistance of natural persons and many times it depends upon the efficiency of the concerned person. I think that the accused/respondent can be compensated to certain extent by imposing a cost. I considered it Rs.2000/- as a proper.

5. At the same time, I think the Joint Secretary, Department of Law and Judiciary at Nagpur may also be directed to bring it to the notice of concerned person why the application for certified copy was not filed in time. This court did not intend that departmental action be initiated. This Court only wants the Joint Secretary to bring it to the notice of

concerned person that atleast an application for certified copy has to be filed immediately. Hence, the order --

ORDER

- i. Application is allowed.
- ii. The delay of 383 days in preferring an appeal is condoned subject to payment of costs of Rs.2000/- to be paid to the respondent.
- iii. The appeal be registered.
- iv. The copy of the order be sent to the Joint Secretary, Department of Law and Judiciary at Nagpur for bringing it to the notice of concerned person that care should be taken in future atleast in filing application for certified copy.
- v. Application is disposed of.

CRIMINAL APPEAL NO. ____ OF 2019

Matter be listed on 5th December, 2019.

Learned counsel appearing on behalf of respondent waives notice.

Copy of necessary documents be supplied to the respondent by the appellant

JUDGE