

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

Criminal Application No.661 of 2019
and
Criminal Application No.1217 of 2019
in
Criminal Appeal No.100 of 2006

Harish Madhukarrao Kamble

vs.

State of Maharashtra, through Anti Corruption Bureau, Nagpur.

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

Court's or Judge's Orders

*Shri S.A. Bramhe, Advocate for the Applicant.
Mrs. Swati Kolhe, A.P.P. for the Non-Applicant/State.*

CORAM : S.M. MODAK, J.
DATE : 26th AUGUST, 2019.

Heard Shri S.A. Bramhe, learned Counsel for the applicant – wife of the original appellant and Mrs. Swati Kolhe, learned Additional Public Prosecutor for the State.

The appellant expired on 17/02/2011. Copy of the Death Certificate issued by the Nagpur Municipal Corporation on 18th February, 2011 is annexed with the application. His wife wants to continue with the appeal. There is a delay of 3046 days.

The applicant is praying for condonation of delay and seeking leave as per the provisions of proviso to sub-section (2) of Section 394 of the Code of Criminal Procedure. Both the prayers have been opposed on behalf of the prosecution for the reason that the delay is not properly explained and the applicant cannot be said to be the only near relative.

Read the provisions of Section 394 of the Code of Criminal Procedure. There is a period of 30 days laid down in seeking the leave. It can be sought by the near relatives. It's meaning is given in the explanation. There is a reason quoted for condonation of delay. When the matter is listed for hearing, the applicant got information from the learned Counsel. This explanation is satisfactory. Due to this conviction, the appellant could not get the retiral benefits, if the applicant-wife will succeed, she may get retiral benefits from the employer. I am inclined to grant her leave. Any opinion about a possible claim made by her claiming retiral benefits is not expressed. For deciding the limited issue be me, opinion is expressed. Hence, the order.

ORDER

1. Both the applications are allowed.
2. The applicant is granted leave to continue with the appeal.
3. Necessary amendments be carried out within a period of seven days from the date of the order.

JUDGE

**sandesh*