

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

Criminal Application (APPW) No.210 of 2018

In

Criminal Misc.Application No. _____ of 2018

In

Criminal Writ Petition No.315 of 2018 (D)

Sayed Jafar Sayed Nasir

Versus

State of Maharashtra, through its Secretary, Home Department (Special), Mantralaya,
Mumbai, and others.

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri J.B. Kasat, Advocate for Applicant.

Shri N.R. Patil, Additional Public Prosecutor for Respondents.

Coram : R.K. Deshpande & Arun D. Upadhye, JJ.

Dated : 4th January, 2019

1. On 12-10-2018, this Court passed an order as under :

“ According to the applicant the representation was made to the Advisory Committee on 5/3/2018 which was decided by order dated 12/3/2018. However, when Criminal Writ Petition No.315/2018 was decided on 5/7/2018, this Court relied upon the statement of the respondents that no such representation has been received by the Advisory Committee. Therefore, the present criminal application for review of the judgment dated 5/7/2018 has

been filed along with criminal application for condonation of delay.

Issue notice to the respondents, returnable on 26/10/2018.

Learned Additional Public Prosecutor Shri A.M. Deshpande waives service of notice for the respondents.

We are anxious to know as to whether the Advisory Committee had received the representation from the petitioner at the time when he was produced before the Advisory Committee on 5/3/2018. The communication dated 11/9/2018 annexed with Criminal Application (APPP) No.1634/2018 for amendment shows otherwise. We would like to know whether any reasoned order was also passed rejecting the representation.”

2. In response to the aforesaid order, it is admitted by the respondents that the representation was received by the Advisory Board from the applicant/petitioner at the time when the petitioner was produced before it on 5-3-2018. We dismissed the petition solely on the ground that no such representation had been received by the Advisory Board. We did not consider the merits of the controversy involved in the petition.

3. In view of the aforesaid admission by the respondents in response to the order passed by this Court, the decision rendered on 5-7-2018 in Criminal Writ Petition No.315 of 2018 needs to be recalled.

4. We had issued notice on the application for condonation of 41 days' delay caused in filing an application for review/recall of the order. The reply is filed on the application for condonation of delay as well as on merits. After going through the averments made in the application, which remain uncontroverted, we are satisfied that a sufficient cause is made out for condonation of delay.

5. Hence, Criminal Application (APPW) No.210 of 2018 is allowed. The delay caused is condoned. The judgment and order 5-7-2018 passed in Criminal Writ Petition No.315 of 2018 is hereby recalled. The said criminal writ petition is restored for being decided on merits.

6. Thus, the applications for condonation of delay and review of the judgment and order dated 5-7-2018 passed in Criminal Writ Petition No.315 of 2018, stand disposed of.

7. Criminal Writ Petition No.315 of 2018 be placed before the appropriate Bench on 11-1-2019 for hearing, as the matter is of the detention.

8. The reply is already placed on record.

(Arun D. Upadhye, J.)

(R.K. Deshpande, J.)