

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

CRIMINAL APPLICATION (APPA) NO.1210/2018

IN

CRIMINAL APPEAL NO...../2019

Ishwar Krushnaji Ragit

..VS..

Gulab s/o Dadaji Ratankar

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

Court's or Judge's Order

.....
Shri A.I.Ragit, Counsel for the Applicant.
Shri S.R.Kadam, Counsel for the Non-applicant.

CORAM : V.M.DESHPANDE, J.

DATED : APRIL 29, 2019.

1. This is an application for condonation of delay in filing an appeal. Delay is of 2019 days.
2. Heard learned counsel Shri A.I.Ragit for the applicant and learned counsel Shri S.R.Kadam for the non-applicant who vehemently opposes the present application.
3. Though the delay appears to be enormous, in following facts, the said is required to be condoned.
4. The applicant is original complainant who filed a complaint which was registered as Summary Criminal Case No.212/2011 against the non-applicant. The said criminal case was dismissed on 20.3.2013 by learned Judicial Magistrate First Class, Rajura and the non-applicant was acquitted of offence under Section 138 of the Negotiable Instruments Act.

.....2/-

5. Subsequent to that, on 17.4.2013 the applicant preferred an appeal before learned Sessions Court at Chandrapur. The said appeal was registered as Criminal Appeal No.47/2013. Thus, within 30 days the appeal was presented. The said appeal was remained pending for 5 years, 6 months, and 3 days. Ultimately, learned Additional Sessions Judge, Chandrapur vide judgment and order dated 20.10.2018 disposed of the said appeal as not maintainable. Thereafter, the present appeal was filed along with an application for condonation of delay. The appellant was prosecuting remedy before wrong forum. The proceedings were filed within limitation though before the wrong forum.

6. In that view of the matter, the criminal application is allowed. The delay is condoned. Office is directed to take necessary steps in the matter.

7. The criminal application stands disposed of accordingly.

JUDGE

!! BRW !!

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