

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

CRIMINAL APPLICATION (APPA) NO. 771 OF 2019

Maharashtra Co-op. Marketing Federation Ltd., thr. Its District Marketing Officer

..vs..

M/s. Jai Ambe Krishi Kendra Mowada, thr. Its Proprietor

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

Court's or Judge's orders

Ms. Aarti Singh, Advocate h/f Shri P.D. Meghe, Advocate for
appellant.

Shri T.A. Mirza, Assistant Public Prosecutor for respondent-sole.

CORAM : VINAY JOSHI, J.
DATED : 08/01/2020

Heard.

2. This is an application for condonation of delay of 2689 days caused in filing Criminal Appeal to challenge the order of dismissal of Criminal Complaint for want of steps. Learned Magistrate has dismissed the complaint on 21.12.2011 since the steps were not taken. The said order was challenged by the complainant by way of filing of revision petition which took 4 years and ultimately, came to be dismissed on 24.02.2016. The appellant realized that he has resorted wrong remedy, therefore, he filed Criminal Writ Petition No. 162 of 2019. Again, the appellant understood that it was also wrong remedy as he was required to file appeal, therefore, appellant has withdrawn the petition with liberty to prefer appeal. Accordingly, this Court has disposed the Criminal Writ Petition 176 of 2019 as withdrawn with liberty as prayed.

3. The liberty granted by this Court can be

construed only to the extent of filing of Criminal appeal, but it does not mean that the Writ Court has condoned the delay. After all, this Court has to consider Whether delay is satisfactorily explained within the parameter of Section 5 of the Limitations Act. Time to time the appellant resorted incorrect remedy and ultimately, filed this Appeal. Pertinent to note that, after dismissal of revision for the period of 3 years, the appellant did nothing and again file wrong proceeding i.e. Criminal Writ Petition in the year 2019. The affidavit contains the reasons that the then Counsel has initially not informed the decision, the file was sent to the Head Office and panel of advocate took few months time to give proper advise. By any stretch of imagination, these reasons are not sufficient to condone the inordinate delay. The dismissal of complaint in the year 2011 has accrued certain rights in favour of accused. For want of sufficient cause, delay cannot be condoned on mere asking. Hence, application stands dismissed as well as appeal is disposed.

JUDGE

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