

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

CRIMINAL APPLICATION [APPA] NO. 854/2019.

Damodar Narayan Murkute and others.

-VERSUS-

Sau Varsha Subhash Bhandarkar and others.

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

Court's or Judge's Orders

Shri S.T. Harkare, Advocate for the Applicant.
Shri A. Chaware, Advocate for Non-applicant Nos.1 and 2.
A.P.P. for Non-applicant No.5.

CORAM : VINAY JOSHI, J.

DATE : DECEMBER 18, 2020.

Heard.

2. This is an application for condonation of delay of 364 days caused in filing Criminal Appeal, challenging the order of acquittal in S.C.C. No.71/2015 dated 05.07.2018. It was a private complaint filed by the applicant alleging that non-applicants have committed an offence punishable under Sections 294, 506 read with Section 34 of the Indian Penal Code.

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3. It is submitted that though the applicant was vigilant in the proceeding, the then learned Counsel has not informed the dates and progress of the proceeding to him. He would submit that the applicant was in the process of shifting to Nagpur and from last two years he is residing at Nagpur. It is contended that since he was not informed by the Advocate, on enquiry he learn about the impugned order, and hence approached this Court.

4. The learned Counsel appearing for non-applicants have resisted the application by contending that the delay has not been satisfactorily explained. The cause for condonation of delay has also been doubted.

5. It appears that two non-applicants i.e. non-applicant nos. 3 and 4 have been added in handwriting to whom notices were not issued. It is not clear as to when they have been added. Any how, those two non-applicants are children of non-applicant nos. 1 and 2, therefore, it is not

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necessary to issue notice while considering this application for condonation of delay.

6. As it was submission that the then Advocate has not informed the applicant about the progress of the proceedings, which has caused delay. It is argued that for lapses on the part of the Advocate, the party should not be made to suffer. There is no reason to suspect the cause, however, as the applicant was not diligent to certain extent, following order is passed.

7. Criminal Application is allowed and disposed of. The delay caused in filing appeal is condoned, subject to applicant depositing costs of Rs.1000/- with the Library of the High Court Bar Association, Nagpur within a period of two weeks from today. On deposit of said amount and placing receipt thereof on record, the delay shall stand condoned. Appeal be thereafter registered and placed for consideration for grant of leave.

8. If the costs is not deposited within the stipulated period, this application shall stand

Order

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dismissed without any further reference to the
Court.

JUDGE

Rgd.