

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

**CRIMINAL APPLICATION (APPA) NO. 895/2019**  
**IN**  
**CRIMINAL APPEAL NO. /2020**

State  
..VS..  
Imran Khan Akbar Khan & ors.

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

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Ms. K.S. Joshi, Addl. PP for the applicant/appellant  
Shri S.Z. Qazi, Advocate for the non-applicant/respondent nos. 1 & 2  
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**CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.**  
**DATED : 16/12/2020**

1] This appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "the Act of 1989") is filed beyond the prescribed period of limitation, delay in filing the appeal being of 95 days. Learned Addl. PP and learned advocate for the respondent nos. 1 and 2 – accused were heard on 14/12/2020 and the objection raised by learned advocate for the respondent nos. 1 and 2 – accused relying on the second proviso below sub-section (3) of Section 14-A of the Act of 1989 was accepted and the order was dictated in the Court, dismissing the appeal on the ground that the delay in filing the appeal under Section 14-A of the Act of 1989 cannot be condoned. However, before signing the order, we noticed the judgment given by the Division Bench of this Court in the case of *Bharat @ Pintu Tukaram Sonawane vs. The State of Maharashtra & anr.* delivered at the Principal

Seat in Interim Application No. 01/2019 in Criminal Appeal (St.) No. 1210/2019 and the judgment given by the Full Bench of Allahabad High Court in *Re : Provisions of Section 14-A of SC/ST (Prevention of Atrocities) Amendment Act, 2015 reported in 2018 CRI. L.J. at page 5010*. The Full Bench of the Allahabad High Court held that the second proviso below sub-section (3) of Section 14-A of the Act of 1989 is violative of Articles 14 and 21 of the Constitution being manifestly arbitrary and directly taking away the right of first appeal which is recognized to be an integral facet of fair procedure enshrined under Article 21 of the Constitution, and taking away the discretion of the Court to consider the prayer for condonation of delay even where sufficient cause may exist. These judgments were not brought to our notice on 14/12/2020. We also noticed the order passed by Shri A.M. Badar, J. at the Principal Seat in Criminal Application No. 35/2019 in Criminal Appeal (St.) No. 34/2019 (Rashid Kasim @ Kashid Tamboli & anr. vs. The State of Maharashtra) on 15/02/2019 and the order passed by the Division Bench of this Court (Shri Indrajit Mahanty & Shri N.B. Suryawanshi, JJ.) at the Principal Seat in Criminal Application No. 34/2019 in Criminal Appeal (St.) No. 33/2019. In both these orders, it is recorded that as the second proviso below sub-section (3) of Section 14-A of the Act of 1989 is struck down by Allahabad High Court, it has to be treated that the proviso is no more on the statute book.

2] We are in agreement with the view taken by the Co-ordinate Bench at Bombay and by the learned Single Judge at Bombay and accordingly overrule the objection raised on behalf of the respondent nos. 1 and 2 – accused

relying on the second proviso below sub-section (3) of Section 14-A of the Act of 1989.

3] Accepting the explanation given in the application, the delay of 95 days in filing the appeal is condoned.

4] The criminal application is **allowed** accordingly.

5] Copy of the order dictated on 14/12/2020 be kept in sealed cover signed by both the Sheristedars of this Court.

6] The criminal appeal be listed for hearing on 21/12/2020.

**JUDGE**

**JUDGE**