

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 242 OF 2018
IN
REVISION APPLICATION (STAMP) NO. 247 OF 2018**

Vilash Mahadev Patil (Gavade)

..... Applicant

vs.

State of Maharashtra

.....Respondent

.....

Mr. Jayant J. Bardeskar for the Applicant.
Ms Veera Shinde, APP for the Respondent-State.

CORAM : SURENDRA P. TAVADE, J.

DATE : 10 MARCH 2021.

P. C. :

. This is an application for condonation of delay of 5 years and 256 days for preferring the Criminal Revision Application against the judgment and order was passed by the Additional Sessions Judge, Gadhinglaj, Kolhapur, in Criminal Appeal No. 19 of 2009. It is contended that the Applicant along with four other persons were prosecuted for the offences punishable under Sections 143, 147, 341, 427 of Indian Penal Code (for short "IPC") and 135 of Bombay Police Act. The Applicant was convicted by the Judicial Magistrate First Class for the above offences. The Applicant was convicted and sentenced to pay fine of Rs. 500/- for the offence punishable under Section 143 of IPC, in default of which, he was directed to suffer simple imprisonment for 15 days. He was convicted under Section 147 of IPC and sentenced to pay fine of Rs. 1000/- in default of which he was directed to undergo simple imprisonment for 1 month. Further, he was

convicted under Section 341 of IPC and sentenced to pay fine of Rs.100/- in default, he was directed to undergo simple imprisonment of 2 days. He was also convicted for the offence punishable under Section 427 of IPC and sentenced to pay fine of Rs. 500/- in default, he was directed to undergo simple imprisonment for 15 days. The Applicant has paid the amount of fine as directed above.

2. The Applicant had preferred Appeal bearing No. 19 of 2009 before the Additional Judge Sessions Court. During the pendency of the said appeal, the Applicant was taking education. He lost his father in the year 2017. He made inquiry about the pendency of his appeal, but he came to know that his lawyer A. R. Basarikatti passed away. Therefore, the Applicant made an inquiry in the Court and came to know that his appeal was dismissed on 8 May 2012. After knowing the dismissal of the appeal, he applied for certified copy of the judgment and order of the appeal. Thereafter, he filed Criminal Revision Application along with the present Criminal Application.

3. Heard learned Counsel for the Applicant and learned APP for the Respondent-State. It is submitted on behalf of the Applicant that the Applicant hails from poor family and he was completely independent on his father, who died on 8th June 2017. The Applicant has completed his post-graduation i/e M.A and B.Ed degree, but due to conviction order, he could not secure job. It appears that the Applicant had preferred an appeal against the judgment and order of trial Court. Further It appears that the Counsel who was looking after the appeal on behalf of the Applicant also

passed away on 3 January 2013. The Applicant made an inquiry about the pendency of his appeal, he came to know about its dismissal. On going through the averments made in the Application it appears that, the Applicant had not taken care to make an inquiry about the pendency of his appeal. The Applicant lost his father as well as his Counsel. The Applicant must get chance to challenge the order of First Appellate Court by way of revision. The conviction order is blot on the career of the Applicant. He has completed his post graduation so there is possibility of his getting job, but due to the conviction order he cannot get a job as teacher or any other job. To meet the ends of justice, the Applicant must get chance to prefer Revision Application against the impugned order passed in Appeal No. 19 of 2009.

4. Learned APP submits that heavy cost be imposed on the Applicant and said cost given to Police Welfare Fund Commissioner Office Mumbai. The learned Counsel for the Applicant submits that the Applicant is poor and hails from agricultural family, therefore, reasonable cost be imposed on the Applicant. Considering the status of the Applicant an amount of Rs.10,000/- will be just and reasonable.

5. Application is allowed. The delay in preferring the Revision Application against the judgment and order passed in Criminal Appeal No. 19 of 2009 passed by the Additional Sessions Judge, be condoned, subject to cost of Rs. 10,000/- to be deposited by the Applicant. The Applicant is directed to deposit cost of Rs.10,000/- with Police Welfare Fund Commissioner Office Mumbai, within a period of four weeks from today.

After the depositing costs, the Revision Application be registered.

6. Criminal Application is disposed of.

[SURENDRA P. TAVADE, J.]