

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

CRIMINAL APPLICATION (APPP) NO.238/2021

IN

CRIMINAL APPLICATION (APPP) NO.237/2021

IN

CRIMINAL APPLICATION (APPP) NO.18/2019

IN

CRIMINAL APPLICATION (APPP) NO.17/2019

IN

CRIMINAL APPLICATION (APL) NO.442/2013

Purushottam Laxman Akarte Vs. State of Maharashtra and anr.

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

Court's or Judge's orders

Shri Mahesh Rai, Advocate with Ms. S. B. Khobragade, Advocate for Applicant.
Shri S. P. Deshpande, A.P.P. for Non-applicant No.1/State.

CORAM : Z. A. HAQ AND
AMIT B. BORKAR, JJ.

DATE : 18/02/2021.

1. Heard.
2. Criminal Application (APL) No.442/2013 was filed by the applicant/accused praying that the First Information Report registered against him for the offence under Sections 417, 418, 463, 464, 468, 671 read with Section 34 of the Indian Penal Code be quashed.
3. The applicant was not serious in prosecuting the matter and none appeared for the applicant on 23.04.2014. Thereafter on 06.05.2014 Criminal Application was admitted and was listed for hearing on 29.06.2018, on which date again none appeared for the applicant, the matter was adjourned. On 09.07.2018, when the matter was listed, again none

appeared for the applicant and the Criminal Application (APL) No.442/2013 was dismissed.

4. The applicant had filed Criminal Application (APPP) No.17/2019 praying for restoration of Criminal Application (APL) No.442/2013 and as there was delay in filing Criminal Application (APPP) No.17/2019, the applicant had filed Criminal Application (APPP) No.18/2019 praying for condonation of delay. Notice was issued on Criminal Application (APPP) No.18/2019. When the matter was listed on 19.06.2019, none appeared for the applicant and matter was adjourned. On the next date i.e. on 28.06.2019, adjournment was sought on behalf of the applicant, which was granted. Then, after notice of final disposal was served on the non-applicants, the matter was listed on 09.09.2019, on which date, following order was passed.

“This application is for condonation of delay in filing Criminal Application No.17 of 2019 for restoration of Criminal Application [APL] No. 442 of 2013, which came to be dismissed for want of prosecution on 9th July, 2018.

On the earlier date, learned Adv. Shri Mahesh Rai for the applicant had sought time to make a statement whether to press this application, or otherwise. As we find that the subject-matter of the application which came to be dismissed for want of prosecution is for quashing of First Information Report which came to be registered on the basis of an order passed by the learned Magistrate under Section 156(3) of Criminal Procedure Code, even prior to issuance of process. In that view of the matter and relying on the law in the case of HDFC Securities Ltd. Vs. State of Mah. [2017 (1) B Cr C

165 (SC)], we grant one week's time to the applicant as a last chance, with a clarification that in the event the counsel for applicant is not present, the application along with the subject application, of which restoration is prayed for will be duly considered and appropriate orders shall be passed.

Stand over 16th September, 2019.”

5. On the next date i.e. on 06.01.2020, the learned Advocate for the applicant requested for adjournment, however, as the request was opposed on behalf of the non-applicant No.2, the request for adjournment was refused and after considering the matter on merits, Court passed order recording that, the applicant was not interested in prosecuting the matter.

6. Then, the applicant filed Criminal Application (APPP)119/2021 praying for restoration of the matter and again there was delay in filing the application and therefore, Criminal Application (APPP) No.120/2021 was filed. It was found that there were serious lapses in filing of the Criminal Application (APPP) No.120/2021 and therefore, that application was rejected granting liberty to file fresh application. Accordingly, the present application is filed.

7. Considering the facts of the case, which show beyond doubt that the applicant is dragging the matter since 2013, and further considering the orders passed by this Court on 09.09.2019 and 06.01.2020, we do not find any reason to grant the prayer made in the Criminal Application.

8. Hence, the Criminal Application is dismissed. Consequently the Criminal Application (APPP) No.237/2021 is also rejected.

JUDGE

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