

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

CIVIL APPLICATION (CAF) NO.1611 OF 2020
AND
CIVIL APPLICATION (CAF) NO.2382 OF 2021
AND
CIVIL APPLICATION (CAF) NO.1283 OF 2020
WITH
MISC. CIVIL APPLICATION (MCA) (ST) NO.11237 OF 2020
IN
FIRST APPEAL NO.546 OF 2019

[Maharashtra Industrial Development Corporation Ltd, Amravati
..**Vrs.** Kedarnath Gangdhar Agrawal and Anr.]

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

Court's or Judge's order

Shri. K. N. Shukla, Advocate for Applicant/Appellant
Shri. M. A. Kadu, AGP for Respondent No.2.

CORAM : M. S. SONAK, J.

DATE : 7th DECEMBER, 2021.

Heard the learned Counsel for the parties.

2. This is an Application seeking action under Section 340 of the Criminal Procedure Code (CrPC). The Applicant contends that the officials of the Appellant i.e. Maharashtra Industrial Development Corporation while seeking condonation of delay of about 625 days in instituting the Appeal had made false statements.

3. Record shows that there is no dispute that the Civil Applications seeking condonation of delay were allowed by order dated 03.04.2019 after hearing the learned Counsel for the parties in some detail. Replies, as well as rejoinders, were filed on the issue of condonation of delay.

4. As if this was not sufficient, the present Applicants carried the matter before the Hon'ble Supreme Court but the SLP against the orders dated 03.04.2019 was summarily rejected.

5. Much thereafter, this Application has been filed stating that certain information was requisitioned under the Right to Information Act and it is based on this information that action under Section 340 of CrPC is now warranted.

6. The learned Counsel for the Applicant has pointed out that the false statements made on oath were concerning the following matters:

- a) A statement was made that some approval is necessary for sanction of Court fees. Now, through RTI it is found that no such approval was necessary for rather, the appellants were themselves the approving the Authorities ;
- b) That the Panel Counsel demanded the Court fees in the last week of June 2018 when the response to the RTI query indicates that such demand was made slightly earlier ;
- c] The statement was made that the Court fees were received on 04.08.2018 when now the RTI response indicates that they were received on 27.06.2018.
- d) The statement was made that one Totewar was responsible for taking steps to file this Appeal and even the orders to

be appealed were found under his desk. In the rejoinder, however, a stand was taken that it was not Totewar but Shri. Chandan who was responsible.

- e] A statement was made that no information was provided by the staff facilitating the institution of this Appeal and this also contributed to the delay. It is now contended that the RTI response shows that this was not correct.

7. Having considered the above contentions and perused the record, in my judgment, there is no case made out for action under Section 340 of the CrPC in these cases. The statements in the application seeking condonation of delay or the affidavit supporting them cannot be said to be some false statements made on oath for securing condonation of delay of 625 days. Even the responses to the RTI queries, at the most, suggest some inaccuracies, but this is not a case of making false statements on oath to invite any criminal action as is being urged.

8. Besides, the learned Counsel admitted that in the SLP to challenge this Court's order dated 03.04.2019, grounds about false averments in the applications were taken. Even in the replies filed before this Court, the grounds challenging the averments were raised. Before raising such grounds, the applicants should have obtained proper information. Even the RTI information provided does not deviate substantially in material

particulars from what was pleaded before this Court. This application may have been filed only to exert pressure on the officials or to avoid or delay adjudication in the appeal on merits.

9. Even earlier, one such application was filed but the same was withdrawn with liberty to file afresh application. Having regard to all these circumstances, all these applications are required to be dismissed with costs. The matter was adjourned for a little while to enable the learned counsel to take instructions on the quantum of costs, particularly, now that this was the second attempt of the applicants in this direction.

10. The learned Counsel however states that these applications have been filed by poor farmers even though, the cause-title refers to these poor farmers as businessmen. This alleged poverty does not seem to have prevented the applicants from taking out several such proceedings to avoid or delay adjudication on merits. Be that as it may, these applications are now dismissed with costs of Rs.5,000/- in each of the applications. Such costs should be paid within two weeks from today.

JUDGE

TAMBE

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Date: 2021.12.14
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