

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

901 CRIMINAL WRIT PETITION NO.689 OF 2022

SARTAJKHAN SATTARKHAN PATHAN AND OTHERS
VERSUS
JARINA TABASSUM W/O. SIRAJKHAN PATHAN AND
OTHERS.

...
Advocate for Petitioners : Mr. Shinde Dhananjay M.

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CORAM : SHRIKANT D. KULKARNI, J.
Dated : August 11, 2022

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PER COURT :-

1. The petitioners have challenged the order passed by the Additional Sessions Judge, Hingoli in Criminal M.A.No.6 of 2019 dated 15.3.2022, whereby delay was condoned at the request of respondent nos.1 to 5.

2. Heard Mr. Shinde, learned counsel for the petitioners. Respondent nos.1 to 5 though duly served, remained absent when the matter is called out.

3. Mr. Shinde, invited my attention to the impugned order page no.87 paragraph nos.9 to 14. He pointed out that respondents were negligent in prosecuting the matter. There was no sufficient cause to condone the

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delay. Even for the sake of moment accepted that due to death of mother of respondent no.1, she could not attend the Court till January, 2019; what about earlier period, which approximately comes to more than one year. He submitted that respondents have not assigned sufficient cause to condone the delay, even then, learned Additional Sessions Judge, Hingoli condoned the delay which has caused injustice. The impugned order is bad in law. It is liable to be quashed and set aside. He further placed his reliance in a case of **Basawaraj and another Vs. Special Land Acquisition Officer** reported in (2013) 14 Supreme Court Cases 81. He submitted that the party, who is negligent in prosecuting the case, not entitled to condone the delay. It's a case of lack of bonafides on the part of respondents. As such, it was not a fit case to condone the delay.

4. I have considered the submissions of Mr. Shinde, learned counsel for the petitioners. Further, I have perused the impugned order passed below exhibit-1 in

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Cri.M.A No.6 of 2019 dated 15.3.2022 by the Additional Sessions Judge, Hingoli.

5. Mr. Shinde, learned counsel has placed his reliance in a case of **Basawaraj and another Vs. Special Land Acquisition Officer** (supra) wherein the Hon'ble Supreme Court has observed in paragraph nos. 8 and 9 as under :-

“8. It is a settled legal proposition that [Article 14](#) of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief/ benefit inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. If a wrong is committed in an earlier case, it cannot be perpetuated. Equality is a trite, which cannot be claimed in illegality and therefore, cannot be enforced by a citizen or court in a negative manner. If an illegality and irregularity has been committed in favour of an individual or a group of individuals or a wrong order has been passed by a Judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing a similarly wrong order. A wrong order/decision in favour of any particular party does not entitle any other party to claim benefits on the basis of the wrong decision. Even otherwise, [Article 14](#) cannot be stretched too far for otherwise it would make functioning of administration impossible. (Vide: [Chandigarh Administration & Anr. v. Jagjit Singh & Anr.](#), AIR 1995 SC 705, [M/s. Anand Button Ltd. v. State of Haryana & Ors.](#), AIR 2005 SC 565; [K.K. Bhalla v. State of M.P. & Ors.](#), AIR 2006 SC 898; and [Fuljit Kaur v. State of Punjab](#), AIR 2010 SC 1937).

9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient"

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is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See: [Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors.](#), AIR 1964 SC 1336; [Lala Matadin v. A. Narayanan](#), AIR 1970 SC 1953; [Parimal v. Veena @ Bharti](#) AIR 2011 SC 1150; and [Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai](#) AIR 2012 SC 1629.)."

6. It is important to note that the above said decision is arising out of the Land Acquisition Case. In the present case, respondents intended to file an appeal under the provisions of the Protection of Women From Domestic Violence Act, 2005 which is beneficial legislation for the weaker section of the Society. The learned Additional Sessions Judge, Hingoli while condoning the delay in paragraph nos.9 and 14 has

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assigned the reasons and observed that the respondents had shown sufficient cause for condonation of delay. Even, it is observed in paragraph no.14 that though respondents had assigned different grounds, but those are found to be sufficient for condonation of 600 days delay in preferring the appeal under the provisions of the Protection of Women From Domestic Violence Act, 2005. There is no apparent error on the part of the Additional Sessions Judge, Hingoli while condoning the delay. I do not see any reason to interfere with that order. No interference is required.

O R D E R

Criminal Writ Petition stands dismissed.

(SHRIKANT D. KULKARNI, J.)

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