

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

***INTERIM APPLICATION NO. 1762 OF 2022
IN
APPLN. FOR LEAVE TO APPEAL (PVT.) (ST.) NO.7374 OF 2022***

Ms. Nirmala Lalchand Dangat ... Appellant
Versus
The State of Maharashtra and Ors. ... Respondents

...
Mr. Nitin Gangal a/w Ashok Kadam, for the Applicant.
Mr. V.B. Konde-Deshmukh, APP for the Respondent/State.
Mr. Pradeep M. Patil a/w P.B. Gole and Raturaj Deshmukh, for the
Respondent Nos. 2 to 6.

...
***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.***

DATE : AUGUST 24, 2022

ORDER : (Per : Sharmila U. Deshmukh, J) :

1. By this application, the applicant seeks condonation of delay of 08 years and 251 days caused in filing the Criminal Appeal. The Criminal Appeal has been preferred assailing the judgment and order dated 23rd July, 2013, passed by the Sessions Court at Pune, in Sessions Case No.482 of 2009, thereby acquitting the original

accused Nos.1 to 5 for the offences punishable under Sections 498-A, 304 (B) and 306 read with Section 34 of the Indian Penal Code (for short, “IPC”).

2. Heard learned counsel appearing for the parties.

3. The learned Counsel appearing for the Applicant submits that the reasons set out in the application sufficiently explains the delay caused in filing the Appeal. The applicant is the mother of the victim and falls within the definition of “victim” under Section 2 (wa) of the Code of Criminal Procedure. The learned Counsel for the Applicant, relied upon paragraph 12 of the judgment of this Court (Coram : S.S. Shinde & V.G. Bisht, JJ.), in *Criminal Application No. 380 of 2019 in Criminal Appeal (St.) No. 390 of 2019*, decided on 28th February, 2020 to submit that the mother of the deceased is a “victim” and entitled to challenge the order of acquittal passed by the learned Sessions Judge in Sessions Case No.482 of 2009.

4. Learned counsel appearing for the respondents does not dispute the position of the mother of the deceased being a ‘victim’

within the meaning of Section 2(wa) of the Cr.P.C. The Ld. Counsel for the Respondents opposes the application on the ground that the reasons set out in the application do not make out sufficient cause for condonation of long delay of 08 years and 251 days.

5. Perused the papers. The applicant has stated in paragraph 3 of her application that the family was grieving the death of their daughter and hence, they were unable to take immediate steps; that they were short of funds and required some time to arrange for the funds; that the death of the father of the deceased further delayed the filing of the Appeal.

6. We have considered the submissions made by the learned counsel for the parties. It is not disputed that against the order of acquittal dated 23.07.2013, the State has already preferred the Criminal Appeal No. 679 of 2014. In our opinion, the expression “sufficient cause” employed in Section 5 of the Limitation Act, 1963 is elastic enough to enable the Courts to apply the law in a meaningful manner which subserves the ends of the justice. We are,

therefore, inclined to accept the explanation for the delay set out in the application and condone the delay caused in filing the Appeal.

7. For the aforesaid reasons and in view of the filing of the Appeal by the State against the impugned judgment, the Respondents will not suffer any prejudice in event the delay is condoned.

8. Hence, the following order:

ORDER

- (i) The Application is allowed.
- (ii) The delay of 08 years and 251 days caused in filing the Criminal Appeal is condoned.
- (iii) The application is accordingly disposed off.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.