

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.2484 OF 2021
IN
WRIT PETITION NO.3402 OF 2019

Sheetal Devang Shah ... Applicant / Petitioner
Vs.
State of Maharashtra and others ... Respondents

Ms. Sheetal D. Shah, Applicant in person.
Ms. S. S. Shinde, Additional Public Prosecutor for Respondents-State.

**CORAM : S. S. SHINDE &
REVATI MOHITE DERE, JJ.**
DATE : MARCH 17, 2022

P.C. :

. Heard the applicant who appears in person and Ms. Shinde, learned Additional Public Prosecutor.

2. By this Application, the applicant seeks restoration of Criminal Writ Petition No.3402 of 2019, which was dismissed by this Court *vide* order dated 28.10.2020, for want of prosecution.

3. The applicant appears in person. In the application seeking restoration of the aforesaid petition, the applicant has set out the following reasons for not appearing on the dates given by this Court:-

- a. due to the escalated crimes done against her and her sons, the applicant was required to run from pillar to post to save her sons' education as also their lives;

- b. due to the medical emergency and needs of her son - Veer, which needed to be looked into by the applicant urgently;
- c. immense difficulties in arranging funds for the educational expenses and other expenses of her children;
- d. due to the ongoing pandemic situation and the *Covid-19* guidelines issued by this Court; as also
- e. due to her own health issues during the *covid* times.

. The applicant has further stated that she was unaware of how to proceed further after the case was dismissed for want of prosecution, and hence, there was delay in filing the aforesaid application. The applicant has also tendered an apology.

4. The applicant submits that it was never her intention not to appear before this Court or to delay the hearing of the petition and as such, in the interest of justice, the Petition be restored back to its original file.

5. Learned APP opposes the application. Learned APP has filed an affidavit of Dattatray Namdev Masvekar, Police Inspector (Law and Order), presently attached to Juhu Police Station, dated 17.03.2022. The said affidavit is taken on record. According to the learned APP, ample opportunities / dates were given to the applicant to appear before the specially constituted Bench, however, despite the same, the applicant kept on filing leave notes and failed to appear before this Court and thus wasted precious judicial time.

6. Perused the application as well as the affidavit. This Court, *vide* a detailed order dated 28.10.2020 dismissed the aforesaid petition for want of prosecution. Although, there is some substance in what is stated by the learned APP that the applicant failed to appear before this Court, despite the ample opportunities given to her, which is also reflected in the order dated 28.10.2020, only having regard to the assurance given by the applicant that henceforth, she will appear on all the dates given by this Court and that she will maintain decorum of the Court and also having regard to the fact, that the applicant is a party in person, in the interest of justice, we are inclined to allow this application.

7. In view of the aforesaid, the application is allowed. The order dated 28.10.2020 dismissing the aforesaid petition for want of prosecution is recalled and the aforesaid petition i.e. Writ Petition No.3402 of 2019 is restored back to its original file.

8. Application is disposed of accordingly.

9. All parties to act on an authenticated copy of this order.

(REVATI MOHITE DERE, J.)

(S. S. SHINDE, J.)