

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

CRIMINAL APPLICATION (APPA) NO. 568/2021

(Mr. Prafulla S/o Narendra Watane Vs. Unique Institute Learning
Private Ltd. & ors.)

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

Court's or Judge's Order

Mr. S. Baban, Advocate for applicant.

Mr. S. D. Sirpurkar, APP for respondent No. 5/State.

CORAM :- SURENDRA P. TAVADE, J.

DATED :- 08.02.2022

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. This is an application for condonation of delay in preferring appeal before this Court. It is contended that the applicant filed complaint bearing MCA No. 3147/2017 which was dismissed on 18.02.2020. The applicant applied for certified copy of the order on 25.02.2020. He received the copy of impugned order on 19.03.2020. However, due to pandemic situation, he could not prefer appeal against the impugned order. It is also contended that on wrong advise, the applicant preferred the appeal before the District and Sessions Judge, Nagpur. Ultimately, it came to be withdrawn and the applicant approached this Court

with present application.

3. Heard the learned counsel for the applicant. He submits that the applicant could not prefer appeal in time due to pandemic situation. He also submits that in view of the order passed by the Hon'ble Apex Court in Miscellaneous Application No. 21/2022 in Miscellaneous Application No. 665/2021 in Suo Motu Writ Petition No. 3/2020, it is submitted that the Hon'ble Apex Court has extended period of limitation from 15.03.2020 til 28.02.2022. Perused the order the Hon'ble Apex Court wherein following directions are issued :-

“(I) The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.23021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

(II) Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

(III) In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event, the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

(IV) It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and proviso (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”

4. In view of reasons given in para 3 and 4 in

the application and direction of the Hon'ble Apex Court, in my opinion, the application is required to be allowed.

5. Application stands allowed and disposed of.

6. The delay in preferring the appeal is hereby condoned.

7. The Registry is directed to register the appeal.

CRIMINAL APPEAL NO. _____/2022.

1. Issue notice to the respondents returnable after four weeks.

2. Learned APP waives service of notice for respondent No. 5.

(SURENDRA P. TAVADE, J)

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signed by
JITENDRA
BHARAT
GOHANE
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