

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPP) NO.1955 OF 2021
AND
CRIMINAL APPLICATION (APPP) NO.1954 OF 2021
IN
CRIMINAL APPEAL NO.514 OF 2016 (D)

Shri Yogeshkumar S/o Vishnukumar Landge

Versus

State of Maharashtra, through P.S.O., P.S. Wadi, Dist. Nagpur and another

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

Court's or Judge's Order

Shri A.B. Moon, Advocate for the applicant.

Shri S.D. Sirpurkar, A.P.P. for the non-applicant No.1/State.

Shri Raju Dhoble, Advocate for the non-applicant No.2.

CORAM : ANIL S. KILOR, J.

DATED : 18/04/2022

1. This is an application for condonation of delay i.e. delay of 4 years 6 months and 20 days in preferring the application for restoration.

2. The reason given in the application is that, as in compliance of conditional order the clerk did not remove the office objections within stipulated period of one week, the matter stood dismissed. However, this was not within the knowledge of the learned counsel for the applicant. In the meantime, even the applicant was transferred out of Nagpur and he failed to contact the Advocate for about four years and when the fact of dismissal was revealed, steps were

taken to file application for restoration and as there was delay, the present application has been filed for condonation of delay.

3. On the other hand, Shri Dhobale, learned counsel for the non-applicant No.2, strongly opposes the application, saying that no sufficient caused has been shown by the applicant for condonation of delay.

4. I have perused the record.

5. This Court on 10.04.201, granted one week time to remove office objections and on failure of the same it was observed that the appeal would stand dismissed. The appellant failed to remove the office objections and accordingly, the appeal was dismissed.

6. Looking to the controversy involved in the present matter, I am of the opinion that since the applicant is also at fault, who has not contacted his counsel for four years, the delay should be condoned subject to heavy costs. Accordingly, I pass the following order:

- a) Both the criminal applications are **allowed**.
- b) The delay caused in filing application for restoration is condoned subject to payment of costs of Rs.25,000/- to the non-applicant No.2, within two weeks

- c) The acknowledgment for receipt of payment by non-applicant No.2 shall be filed on record, within two weeks from today.
- d) Thereupon, appeal be restored and be placed before this Court as per its turn.

Both the criminal applications are **disposed** of.

[ANIL S. KILOR, J.]