

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

CRIMINAL WRIT PETITION NO. 351 OF 2022

**SUNANDA W/O SUNIL CHOUDHARY
VERSUS
THE STATE OF MAHARASHTRA AND ANR.**

Mr. A. J. Patil, Advocate for the petitioner
Mr. S. P. Sonpawale, APP for respondent/State

CORAM : R. M. JOSHI, J.

DATE : 22/06/2023

PER COURT :-

1. This petition is filed under Article 226 and 227 of the Constitution of India and Section 482 of Cr.P.C. to set aside the order dated 05/01/2022 passed by the Ld. Additional Sessions Judge, Bhusawal. The petitioner contends that respondent No.2 has filed private complaint for the offence punishable under Sections 418, 420, 406, 408, 409, 477(A), 120(B) and r/w 34 of IPC against Manager and Director of society i.e. Premchand Lotu Nemade, Udyogjak And Vyvasayaik Nagari Sahakari Patsantha Maryadit Savada (for short 'society'). The petitioner is one of the director of the said society and accused No. 7 in the said complaint. It is the allegation of complainant that he is one of the director of the society and has deposited the amount in the society but the same is not refunded to him after the stipulated period. He, therefore filed private complaint being RCC No.

179/2010. After filing of the charge-sheet it has numbered as RCC No. 76/2022 which is pending before the JMFC, Raver. The petitioner filed an complaint before JMFC for releasing of the amount seized by police in his account in State Bank of India, branch Savada. Said application was came to be rejected by order dated 05/10/2012. Thus petitioner by filing revision under Section 397 of Cr.P.C. initiated proceeding being Cri.M.A. No. 44/2021. The said application however came to be rejected on the ground that objection has been filed for after long delay of 8 years and 9 months.

2. It is contention of the petitioner that learned Addl. Sessions Judge has failed to consider reason mentioned in the application for condonation of delay. Petitioner in the interest of justice seeks setting aside of the said order with a direction to the Addl. Sessions Judge to entertain and decide criminal revision on merit.

4. Learned counsel for the petitioner states that the petitioner was advised by her lawyer that the criminal case pending before the JMFC would be decided as early as possible and thereafter he will get her money. On this assurance she did not file any revision or appeal against order of rejection passed by JMFC on 05/10/2012. In the application filed for condonation of delay it is stated that since the

proceedings took longer time and as the applicant could not receive the amount, revision is filed.

5. Learned counsel for respondent Nos. 2 and 3 opposed the application by stating that there is no justified reason for not preferring application within time and hence the application is rightly rejected by the Addl. Sessions Judge. It is also informed to this Court that in fact the petitioner herein has filed an application before JMFC for seeking discharge and the said application is not prosecuted diligently and therefore the proceedings before JMFC are stalled.

5. For the purpose of condonation of delay sufficient cause needs to be made out by the party. Perusal of the application made before the Addl. Sessions Judge does not show that there is any justified reason made out for condonation of delay. Even if it is accepted that the petitioner believed the assurance given by her advocate that the proceeding before JMFC would be concluded as early as possible however the filing of the revision application after laps of long period of 8 years and 9 months can never be justified. Petitioner cannot be permitted to take advantage of her own wrongs. This Court therefore finds no perversity in the findings recorded by the Addl. Sessions Judge in rejecting the said application. It is further necessary to mention that

the present petitioner appears to be responsible for non conclusion of the proceeding before JMFC. Since application for discharge filed by her is pending for more than 15 years, applicant needs to be blamed for pendency of proceeding. It does not stand to any reason as to why the said application was not pressed for all these years. This fact also suggests that petitioner may be interested only in dragging said proceeding further. In such circumstances, it cannot be claimed that only because the proceedings before the JMFC are not concluded in reasonable time he is entitled to challenge of order passed by JMFC on 05/10/2012. Hence petition stands dismissed.

(R. M. JOSHI, J.)

ssp