

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1456 OF 2023
IN REVNST/3746/2023

PANDIT S/O KARBHARI KHODVE
VERSUS
THE STATE OF MAHARASHTRA THROUGH POLICE INSPECTOR
POLICE STATION MAJALGAON

...
Advocate for Applicant : Mr. S. S. Thombre
APP for Respondent : Mr. S. P. Deshmukh
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CORAM : S. G. MEHARE, J.

DATE : 21-06-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The applicant has moved this application for condonation of 314 days' delay caused in preferring the revision application against the order rejecting the discharge application (Exhibit-48) in Sessions Case No.18/2018 dated 17.03.2020, passed by the learned Additional Sessions Judge, Majalgaon, District Beed.
3. Before advertng to the case, it would be appropriate to discuss the relevant facts of the case. The applicant is a policeman. Other policemen are the accused. The incident is from 2013. The present applicant moved a petition under Section 482 of

the Code of Criminal Procedure (for short, "Cr.P.C.") in the year 2014. The applicant secured an interim stay on 29.01.2015. However, the applicant withdrew the said application on 09.04.2015. Then the applicant moved the application for discharge (Exhibit-48) in the year 2018. The said application was decided on 17.03.2020 by the impugned order. The allegations in the case against the accused were that they beat the deceased mercilessly in the police station, and thereafter the deceased committed suicide leaving a suicide note. After collecting the evidence, the Investigating Officer submitted the charge sheet on 13.10.2017. After a long time of passing the impugned order, the applicant approached this Court to prefer a revision application with the application for condonation of delay.

4. Normally, the Court takes a liberal view in condoning the delay, but sometimes the conduct of the petitioner smells of the ill motive to protract the trial and harass the opponent under the garb of a right to exercise the legal remedies. The modus operandi of the accused gives many clues about his intention. In such a case, the Court should refrain from exercising discretion and thinking of the opponent, which may cause him injustice. In such a case, the strict rules of law on condonation of delay should be applied. Considering the reasons for the condonation of delay, the Court is of the view that the applicant approached the Court, as per his convenience, that too not with a good motive.

5. The present is the application for condonation of delay in preferring the revision under Section 397 read with 401 of Cr.P.C. Article 131 of the Limitation Act prescribes a period of 90 days limitation to prefer the revision under Section 397 of Cr.P.C from the date of order. Section 5 of the Limitation Act invokes preferring the revision. For seeking the condonation of delay, the applicant has to satisfy the Court that he had sufficient cause for not preferring the revision in the prescribed period of limitation. "Sufficient cause" means some cause beyond the control of the party. Delay in filing the application cannot be condoned as a matter of course where sufficient cause has not been shown. Inaction or negligence on the part of the applicant is no ground to condone the delay. These are the norms to condone the delay.

6. The reasons for the delay, as pleaded by the applicant, are that the order was passed on 17.03.2020. He applied for certified copies on 24.01.2023 and received them on 25.01.2023; therefore, there was a delay in filing the revision. Further, it has been pleaded that after obtaining certified copies, he approached the Advocate and learned about filing the revision application. Therefore, some time was spent, and the criminal revision application was filed after the court fees and necessary funds were arranged. The delay caused in filing the criminal revision application is not intentional and deliberate. Therefore, in the interest of justice, the delay caused in filing a revision application

may be condoned.

7. The learned counsel for the applicant has vehemently argued that the applicant has a good case on merits. There was Covid-19 lockdown from 15.03.2020 to 28.02.2022. Therefore, that period shall be excluded from counting the limitation. However, he fairly conceded that even if that period is excluded, there is a delay of around ten months in preferring this application.

8. The rule of condoning the delay is that there should be satisfactory material before the Court that the delay is neither deliberate nor intentional. However, Section 5 of the Limitation Act speaks of “extension of prescribed period in certain cases”. As observed above, the applicant has to satisfy the Court that he had sufficient cause for not preferring the revision within such a prescribed period of limitation. The law is settled that the expression ‘sufficient cause’ must receive a liberal construction so as to advance substantial justice. Discretion is to be exercised like any other discretion with vigilance and circumspection. However, discretion shall be exercised when sufficient cause is shown.

9. In the present case, the applicant is a policeman who is presumed to be aware of the legal procedure. After the lockdown was withdrawn, the applicant took ten months to approach this Court. He seems not diligent. He even did not apply for certified copies of the impugned order after the withdrawal of the

lockdown.

10. From the conduct of the applicant, it appears that he wants to protract the trial by filing petitions as per his convenience. Considering his job, it cannot be believed that he spent time collecting the money to approach the Court. The court fee for filing the revision application before this Court is not so high that a policeman could not arrange it. So far as other expenses are concerned, those are not explained and satisfy the Court that the applicant requires such huge time for making arrangements. As discussed above, the reasons he assigned appear not just proper or sufficient. The applicant could not satisfy the Court that sufficient cause exists to condone the delay. Considering the relief the applicant has sought, the Court is of the view that his substantial right would not affect if leniency is not shown. His right to put the defence is undefeated.

11. For the above reasons, the revision application stand dismissed.

(S. G. MEHARE)
JUDGE

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