

CRIMINAL WRIT PETITION NO. 798 OF 2023

Versus

Dharma kashinath Hon & another	Respondents
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Mr. A. A. Fulfagar, Advocate for the petitioners.
Mrs. G. L. Deshpande, APP for the State.

CORAM : R. M. JOSHI, J.
DATE : 30th JUNE, 2023.

PER COURT :

1. Notice of respondent No. 1 is dispensed with. By consent of both the parties, heard finally at the stage of admission.
2. This petition takes exception to the order dated 21st March, 2023 passed below Exhibit 1 in Criminal Misc. Application No. 23/2017 by learned Additional Sessions Judge, Kopergaon. The said application was for condonation of delay in filing appeal against acquittal of petitioner in RCC No. 149/2011.
3. Learned counsel for the petitioners states that though there was delay of 9 months, the learned Appellate Court has

considered it to be of 9 days only. He further states that though there was no evidence on record to show that applicant therein was suffering from any ailment, the learned Court has presumed the same. A grievance is made that in the appeal against acquittal filed by the present petitioners against respondent, he used to appear in the Court and thus he had knowledge about pendency of the said appeal as well as there was no reason for not preferring appeal in time.

4. In case of condonation of delay, no pedantic approach can be adopted by the Court and delay should be condoned liberally unless malafides are shown. In the present case, petitioners were unable to show as to what prejudice or irreparable loss is caused to them by not preferring the appeal in time. Observations with regard to ailment of the respondent need to be considered in view of the fact that respondent is aged 65 years and therefore he may be suffering from old age diseases. In any case, condonation of delay would be discretion of Court concerned and unless order is perverse or wholly unsustainable, no interference therein is expected to be caused.

5. This Court finds no perversity in this order. Hence, petition stands dismissed.

(R. M. JOSHI)
Judge

dwb