

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.385 OF 2004

Ajabrao s/o. Dinkarrao Dandade,
Age 33 years, Occu. Labour / Daily wager,
R/o. Laxmi Niwas, Khadkeshwar,
Aurangabad

.. Applicant
(Original Non-applicant)

Versus

Sau. Ratna w/o. Ajabrao Dandade,
Age 31 years, Occu. Private Tuition,
R/o. C/o. Bhanudas Rupchand Patil,
Khote Nagar, Near Bus-Stop,
Jalgaon

.. Respondent
(Original Applicant)

...
Mr. G. V. Nawandar, Advocate for Applicant;
Ms. Nayana Patil, Advocate holding for Ms. Surekha Mahajan,
Advocate for Respondent

...

CORAM : S. G. MEHARE, J.

DATE : 05-06-2023

ORAL JUDGMENT :-

1. The learned counsel appearing for the respondent seeks adjournment and states that she is not ready to advance the argument as the file is not with her. It is really surprising that the matter was kept for final hearing and the learned counsel for respondent is not ready to advance the argument. However, the matter is heard finally.

2. The applicant has impugned the order refusing to condone the delay caused to prefer revision petition against the order of maintenance passed by the learned Judicial Magistrate, First Class, 1st Court, Jalgaon, in Criminal Miscellaneous Application No.132 of 2000, dated 11.10.2002.

3. The learned counsel for the applicant would submit that the learned 1st Ad-hoc Additional Sessions Judge, Jalgaon did not consider the grounds for condonation of delay. He would submit that the applicant submitted medical papers of his father and his own. However, the learned Adhoc Additional Sessions Judge has erroneously held that copies which are produced being the xerox copies, can not be received in evidence. He also argued that the applicant has a good case on merit, but delay condonation application was decided on technicality.

4. Perused the impugned order.

5. Both the parties had filed an affidavit on record. Condonation of delay was sought on the ground of ill-health of father of the applicant and his own. It seems that the original papers were not produced on record. Hence, the learned Ad-hoc Additional Sessions Judge, Jalgaon rejected the delay condonation application. The burden was on the applicant to prove that there were sufficient grounds that restrained him from approaching the Court in time. The learned counsel for the applicant could not

satisfy the Court that there were apparent mistake on the part of the learned Ad-hoc Additional Sessions Judge, Jalgaon, in rejecting the application. Since there was no admissible evidence, the learned Ad-hoc Additional Sessions Judge, Jalgaon, appears to have correctly declined to receive the medical papers as evidence.

6. Since there was no apparent error on record, the Court is not inclined to interfere the impugned order dated 18.06.2004.

7. For the above reasons, the revision application deserves to be dismissed. Hence, the order :-

ORDER

- i) Revision application is dismissed.
- ii) R & P be returned to the learned Judicial Magistrate, First Class, First Court, Jalgaon.
- iii) Rule stands discharged.

**(S. G. MEHARE)
JUDGE**

rrd