

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

**CRIMINAL REVISION APPLICATION NO. 181 OF 2023
WITH
CRIMINAL APPLICATION NO.2245 OF 2023**

KAMLAKAR SHAHU KAKDE

... Applicant

Versus

SUPRIYA KAMALAKAR KAKDE

... Respondent

...

Advocate for Applicant : Mr. A. R. Borulkar

Advocate for Respondent: Mr. Suniket A. Kulkarni

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 23.08.2023

PER COURT :

1. By this application, the applicant takes exception to the judgment and order dated 19/04/2023 passed by the learned Sessions Judge, Aurangabad, in Criminal M. A. No.75/2022, by which, the prayer for condonation of delay has been rejected.
2. Mr. Barulkar, learned Advocate appearing for the applicant would submit that the order passed by the Judicial Magistrate, First Class [JMFC], Aurangabad, thereby directing the payment of maintenance of Rs.2000/- under the provision of Domestic Violence Act was subjected to challenge in revision before the Sessions Court. He would submit that the impugned order was passed on 16/11/2019 and the revision application was filed on

09/03/2022. He would submit that because of various ailments so also Covid period, the filing of revision application was delayed. The delay caused is not intentional. He would submit that the learned Sessions Judge ought to have adopted pragmatic view of the matter and condoned the delay. However, for technical reasons, the application seeking condonation of delay has been rejected.

3. The learned Advocate appearing for the respondent vehemently opposes the contentions. He would submit that although the order of interim maintenance is passed in November-19, till this date, the applicant has not deposited a single pie towards maintenance. He would further submit that the learned JMFC had passed the order after hearing both the parties. Therefore, there is no substance in the prayers made by the applicant.
4. Having considered the submissions advanced, it can be observed that, the learned JMFC has passed the order dated 16/11/2019 directing interim maintenance of Rs.2000/- to the applicant. Since March-2020, owing to outbreak of Covid-19 pandemic, the Supreme Court of India had issued general directions, thereby freezing the period of limitation. If those directions are taken into account, the reasons for condonation of delay caused in filing the revision needs to be liberally construed. The applicant has annexed various documents indicating his illness that could have been given due consideration. At the same time, the interest of the opponent – wife needs to be taken care of. Hence, the following order:

ORDER

- (i) The revision application is allowed.
- (ii) The impugned judgment and order dated 19/04/2023, passed by the learned Additional Sessions Judge, Aurangabad in Criminal M. A. No.75/2022 is hereby quashed and set aside subject to condition of payment of Rs.5000/- to respondent / wife within three weeks from the date of this order.
- (iii) Misc. Criminal Application No.75/2022 filed before the Sessions Court shall stand allowed.
- (iv) The appeal be registered and heard on merit.
- (v) The revision application is disposed of accordingly.
- (vi) In view of disposal of revision application, criminal application is also disposed of.

[S. G. CHAPALGAONKAR]
JUDGE

Sameer