

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2488 OF 2023
IN APEALST/6919/2023

Ali Khan Mukhatar Khan

.. Applicant

Versus

The State of Maharashtra

.. Respondent

...

Mr. Chaitanya V. Dharurkar, Advocate for the applicant.

Mr. A. M. Phule, APP for the respondent – State.

...

CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.

DATE : 25th July, 2023

ORDER :-

. Present application has been filed for condonation of delay of 1245 days in filing criminal appeal. Present appellant is the original accused, who has been convicted in Special (Atrocity) Case No.06 of 2016 by learned Special Judge, under the Atrocities Act/Sessions Judge, Nanded on 13.11.2019 after holding him guilty of committing offence punishable under Section 302 of Indian Penal Code. It appears that since the date of arrest, the appellant was in jail i.e. from 01.03.2016. Taking into consideration the fact that he is required to be given legal aid and for the reasons mentioned in the application, the delay stands condoned.

Application stands allowed and disposed of.

2. Before turning to the appeal, it appears that the learned Advocate for the appellant has wrongly quoted that the appeal is under Section 374 of the Code of Criminal Procedure. The appellant had faced trial for the offence punishable under Section 302 of Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the "Atrocities Act"). Though he has been acquitted of the offence under the Atrocities Act, the provisions will not thereafter change for the Appellate Court and, therefore, the appeal should have been under Section 14-A of the Atrocities Act only. Learned Advocate for the appellant is therefore directed to carry out the amendment, so also, in view of right under Section 15-A of the Atrocities Act, he is directed to add the victim as party respondent. Amendment to be carried out within a period of one week.

3. Registry to verify and register the appeal.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm