

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1 CRIMINAL APPLICATION NO.2631 OF 2022
IN ALSST/7213/2022 WITH APPEAL/471/2022

THE STATE OF MAHARASHTRA
VERSUS
MAHENDRA SHYAMLAL RAJPOOT AND OTHERS

...

Mr. R.D. Sanap, Advocate for applicant

Mr. G.A. Kulkarni, Advocate h/f Mr. D.R. Kulkarni, Advocate for respondent
Nos.2 and 4

...

CORAM : SMT. VIBHA KANKANWADI AND
Y.G. KHOBRADE, JJ.

DATE : 17th APRIL, 2023

ORDER :

1 Though the remark by the office says that amendment has not been carried out by learned APP in view of order passed by this Court on 28.03.2023, learned APP is submitting that he has carried out the amendment and he has the acknowledgment. We must put it on record that since the application was by way of e-filing, we have gathered information from our Computer Department that as regards amendment to be carried out in the petitions are concerned, it would be by way of amended copy of the

petition and not any insertions in the original petition. It appears that there is then technical issue, which the registry should sort out. In view of the acknowledgment that has been given to the prosecution stating that the amendment has been carried out, registry to take note of the same. Respondent Nos.1 to 4 in Criminal Application No.2631 of 2022 are served. Learned Advocate Mr. D.R. Deshmukh has caused his appearance for respondent Nos.2 and 4. Nobody appears for respondent Nos.1 and 3.

2 Present application has been filed for condonation of delay of 25 days. Though learned Advocate Mr. G.A. Kulkarni holding for Mr. D.R. Deshmukh appearing for respondent Nos.2 and 4 has strongly opposed the application, however, taking into consideration the duration of the delay and the reasons stated in the application the delay stands condoned. Application stands allowed and disposed of.

3 As aforesaid, the prosecution intends to challenge the Judgment and order of acquittal dated 28.03.2022 passed by learned Special Judge under the Atrocities Act/Additional Sessions Judge, Jalgaon in Special (Atrocity) Case No.6/2019, thereby acquitting the original accused persons of the offences punishable under Section 302, 201, 363, 364, 341, 120B of the Indian Penal Code and under Section 3(2)(v) of the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act, 1989. In view of Section 14-A(2) of the Atrocities Act every order or Judgment should be challenged under the said provisions and, therefore, the prosecution ought not to have filed application for leave under Section 378(1)(B) of the Code of Criminal Procedure. When there is specific provision under special enactment, then, the general law under the Code of Criminal Procedure will not be applicable and, therefore, registry is directed to register the appeal itself.

4 The said appeal by the prosecution and the appeal filed by the original informant Criminal Appeal No.471 of 2022 be listed for admission purpose on 14.06.2023.

(Y.G. Khobragade, J.)

(Smt. Vibha Kankanwadi, J.)

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