

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

**CRIMINAL APPLICATION NO.2716 OF 2022
IN REVNST/7507/2022**

**PRASAD S/O BHASKAR BHIVSANE
VERSUS
VARSHA W/O. PRASAD BHIVSANE AND OTHERS**

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Mr. D. A. Naik, Advocate for the Applicant.

Mr. M. M. Khan, Advocate for Respondent Nos.1 to 3.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : 14th SEPTEMBER, 2023.

PER COURT:-

1. By this application the applicant seeks to condone the delay of 380 days caused in filing Criminal Revision Application before this Court challenging the judgment and order dated 28.06.2021 passed by the Family Court, Aurangabad in Petition No.E-206/2019.

2. The learned Advocate appearing for the applicant would submit that after passing of impugned order he was under medical supervision since November-2021. Thereafter, he was diagnosed of dengue and treated as indoor patient till January-2022. Because of Covid situation he was advised to take bed rest. He would submit that delay caused in filing the Criminal Revision Application is unintentional.

3. The learned Advocate appearing for the respondent/wife vehemently opposes the application. He would

invite attention of this Court to the certified copy of the petition before the Family Court. He points out that the applicant has deposited maintenance amount in pursuance of the impugned order in the month of September-2021 and he attended the Court for that purpose. However, subsequently when the warrant was issued on account of default in payment of maintenance, he rushed to this Court and filed present Criminal Revision Application. He would submit that the reasons given in the application in support of the condonation of delay are false and imaginary.

4. Having considered the submissions advanced, it is apparent that after passing of the impugned order by the Family Court till the month of September, the applicant has deposited some amount in the Family Court and he did not approach this Court at the relevant time. However, it is also the matter of record that the applicant suffered dengue in the month of December-2021 and he was hospitalized for that purpose. The documents relating to the medical treatment advanced is made part of the record of Revision Application. It is obvious that after suffering such illness the applicant could have advised bed rest for some period. Even assuming that he was advised to take bed rest for about three months, still the present application is filed in the month of August. Hardly there is explanation for delay from March-2022 onwards. However, looking to the nature of the dispute between the parties, it would be appropriate to condone the delay subject to payment of cost that will be paid to the respondents. In that view of the matter, following order is passed:

ORDER

- (i) Criminal Application is allowed.

- (ii) The delay of 380 days caused in filing the Criminal Revision Application challenging the order dated 28.06.2021 passed by the learned Judge, Family Court, Aurangabad in Petition No.E-206/2019 is hereby condoned subject to deposit of cost of Rs.7000/- (Rs.Seven Thousand only) to be paid within a period of four weeks from today.
- (iii) Criminal Revision Application be registered.
- (iv) Cost to be deposited with the Family Court, Aurangabad.
- (v) On deposit of the cost, the respondents are at liberty to withdraw the same.
- (vi) Criminal Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE