

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 501 OF 2020
IN
APPLICATION FOR LEAVE TO APPEAL (ST) NO. 58 OF 2020**

Sumati Ashok Nikam ...Applicant
vs.
Karmveer Bhausahab Hire Education
Sanstha and Ors. ...Respondents

Mr. Laxman S. Deshmukh - Advocate for the Applicant
Mr. A. R. Kapadnis - APP for the Respondent-State
Bharat Gadhave, Seema Patil, Pratik Sabrad i/by Tejesh Dande and
Associates – Advocate for Respondent no. 1.

CORAM : S. M. MODAK, J.

DATE : 03rd APRIL, 2023

P. C. :-

1. Heard learned Advocate for the Applicant/original complainant and learned Advocate for the Respondent No. 2. Earlier file was missing and as per office submission, it is reconstructed.
2. The court of the JMFC, Malegaon as per order dated 07/10/2013 was pleased to dismiss the complaint bearing S.C.C. No. 1033 of 2009 for the default of the complainant.
3. This order was challenged by way of Criminal Revision Application No. 115 of 2013 before the Court of Additional Sessions

Judge, Malegaon, District Nashik. Vide order dated 23/07/2018 passed ny the Revisional Court, the order was set aside and the matter is restored.

4. In fact the revision is not maintainable and hence the Respondent-accused filed criminal writ petition no. 4089 of 2018. It was allowed and the order of the sessions court was set aside. It was observed that allowing the writ petition will not come in the way of complainant in pursuing the remedy according to law. This was on 09/01/2020.

5. Present Application is moved for condonation of delay of 6 years 56 days. According to the Applicant this delay was caused as she was prosecuting the revision and she was required to defend the writ petition. There is an objection on behalf of the Respondent-accused.

6. It is matter of record that the revision was filed and thereafter writ petition is filed. It is matter of record that both the parties were prosecuting the respective remedies.

7. In view of that good case is made out for condonation of delay. I am not inclined to impose cost considering the fact that the Applicant is retired teacher.

8. In view of that following order is passed:-

ORDER

(i) Interim Application is allowed in terms of prayer clause 'A'.

(ii) Interim Application is disposed of.

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9. Heard learned Advocate for the Applicant.

10. Special leave is sought to challenge the order of the dismissing the complaint.

11. Learned Advocate for the Respondents are served with the leave application also. He waives notice.

12. Learned APP waives notice for the Respondent-State.

13. A short issue is involved, so this Court will decide the matter finally on the next date.

14. Matter be kept on 17th April, 2023 (High on board).

[S. M. MODAK, J.]