

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL REVISION NO. 75 OF 2019

Baba s/o Parasram Shambharkar and another
.Vs.

State of Maharashtra, through PSO PS, Sitabuldi, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Shri Shashibhushan Wahane, Advocate for the applicants.
Ms M.H. Deshmukh, APP for the State.

CORAM : G.A. SANAP, J.
DATE : 13/03/2023

CRIMINAL APPLICATION NO.330 OF 2023

Heard.

2. The original applicant No.2 Narendra Dandekar died on 24.04.2021. He was convicted and sentenced on various counts. The order of his conviction by the Magistrate was confirmed in appeal. However, the conviction and sentence on some counts was set aside. The applicant is his widow. This application is made for condonation of 574 days delay caused in filing an application under Section 394 (2) of the Code of Criminal Procedure. It is stated that after death of applicant No.2, she is interested to continue the application in as much as the issue of her entitlement to get the pension after the death of the applicant No.2 survives. It is stated that

she was not aware of legal niceties and therefore, the application could not be made within a period of one month. It is therefore, prayed that delay of 574 days caused in filing the application may be condoned.

2. Learned APP submits that considering the facts State has no objection to this application.

3. In view of this, the application is allowed. The delay caused in filing the application under Section 394(2) of Cr.P.C. is condoned.

4. The application is disposed of accordingly.

CRIMINAL APPLICATION NO.45/2023

1. Heard.

2. This is an application made under Section 394(2) of the Cr.P.C. by the widow of accused/applicant No.2, who has been convicted and sentenced on various counts. His appeal filed against the order of conviction and sentence by the learned Magistrate, was confirmed by the Sessions Court. However, the conviction and sentence on some of the counts has been maintained. It is stated that the deceased applicant No.2 with the applicant No.1 have questioned the legality and correctness of the said order.

3. It is stated that the applicant No.2 died on 24/04/2021. The applicant who is widow of the applicant No.2, is entitled to get the pension. It is submitted that in order to clear the stigma and establish her right to get the pension, after demise of the applicant No.2, it is necessary to allow her to continue the application.

4. Learned APP submits that considering the facts and circumstances of the case, Court may pass an appropriate order.

5. It is seen that after the death of applicant No.2 the revision application has abated. The question is whether after the death of applicant No.2 his wife can be granted leave to continue the application. In the application, the widow of deceased applicant No.2 has stated the reasons. In view of the reasons, I am of the view that the application deserves to be allowed.

6. The application is allowed.

7. The applicant is allowed to continue the revision application which was filed by the deceased applicant No.2.

8. The application stands disposed of accordingly.

CRIMINAL APPLICATION NO.385/2022

1. Heard.
2. Considering the facts stated in the application, the application for early hearing is granted. Criminal Revision No.75/2019 be listed for final hearing after four weeks. Advocate appearing for the applicant shall file a composite paper book containing the evidence and relevant documents.
2. Copy of the paper book be supplied to the learned APP well in advance.
3. The Criminal Application stands disposed of accordingly.

(G. A. SANAP, J.)

manisha