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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.824 OF 2024

Shrikrushna Ramakant Upakare and Another PETITIONERS

VERSUS

Shweta Shrikrushna Upakare and Another RESPONDENTS

.....
Mr. Rahul G. Joshi, Advocate for the petitioners
Mr. Hemant Surve, Advocate for respondent No.1
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 2nd MAY, 2024

ORDER :

1. By this petition, filed under Articles 226 and 227 of the Constitution of India, petitioners challenge order passed by learned Additional Sessions Judge, Aurangabad in Criminal M. A. No. 315 of 2022, thereby condoning delay of 3 days in filing appeal against order passed below Exhibit-1 in PWDVA Case No. 214 of 2017.

Delay condonation application was filed by learned advocate for respondents, stating that due to inadvertence, appeal could not be filed within limitation and the delay is attributable to the advocate of appellants. An unequivocal apology is tendered to the Court by learned advocate for the error on his part. An affidavit of advocate is also filed, in support

of the said statements.

2. Petitioners opposed the application stating that the application is not signed by respondents, but is signed by the advocate and, therefore, the application is not maintainable.

3. Having heard learned advocate for petitioners and learned advocate for respondents and after going through grounds raised in the petition and the impugned order, this Court is of the opinion that the Appellate Court is justified in condoning delay of 3 days. Petitioners have raised hyper technical objections in the present petition, which are liable to be rejected at the threshold.

4. There is no jurisdictional error or error of law committed by the Appellate Court while condoning delay of 3 days. No case is made out by petitioners to interfere in the order passed by the learned Sessions Judge, in exercise of extraordinary writ jurisdiction.

5. Writ petition, being devoid of merit, is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE