



Diksha Rane

32. APEAL ST. 4079-24.doc

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL ST. NO.4079/2024
WITH
INTERIM APPLICATION NO.843/2024
IN
CRIMINAL APPEAL ST. NO.4079/2024**

SHIVAJI ASARAM RAUT
VS.

..APPELLANT

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Nitesh Mohite a/w. Adv. Shivram Gawade for the
applicant/appellant.

Smt. Megha Bajoria, APP for the State.

PSI Ware, Talegaon Dabhade police station.

CORAM : M. S. KARNIK, J.

DATE : MARCH 21, 2024.

P.C. :

**INTERIM APPLICATION NO.843/2024 IN CRIMINAL
APPEAL ST. NO.4079/2024**

1. This is an application for condonation of delay for filing
the appeal.

2. Learned APP while opposing the application submitted
that there is no satisfactory explanation indicating the
reasonable and sufficient cause to condone the delay. The
applicant had earlier filed Criminal Writ Petition Stamp
No.13774/2023 before this Court under Section 482 of the
Code of Criminal Procedure challenging the order impugned

in this appeal. The same is allowed to be withdrawn with liberty to file appeal under Section 454 of the Code of Criminal Procedure.

3. For the reasons mentioned in the application, I am inclined to condone the delay. The application is allowed in terms of prayer clause (a). The application is disposed of.

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4. Heard learned counsel for the appellant.

5. Learned APP for the State opposed the appeal for return of the property viz. Maruti Swift VDI bearing registration No.MH-14-DX-0597 which the appellant claims to be of his ownership.

6. By the judgment and order dated 6/5/2022 in MCOC Case No.2/2019 which resulted in acquittal of the accused, in clause (7) of the operative order, the trial Court held thus:-

“7] The seized muddemal i.e. Mahindra Vinto Car bearing registration No. MH-20-CH-9699 and Maruti Swift Car bearing registration No.MH-14-DX-0597 have not been claimed by anybody, same be sold in public auction and sale proceeds be credited to Government.”

7. The appellant was not arraigned as an accused in the said MCOC case. The appellant did not file any application in

MCOC case for return of the property.

8. Learned APP submitted that very same Swift car bearing registration No. MH-14-DX-0597 is the subject matter of seizure in C.R.No.412/2018 registered at Wakad Police Station for the offence punishable under Section 392 read with 34 of the Indian Penal Code.

9. Considering that the Swift car is subject matter of C.R.No.412/2018, in my opinion, this appeal can be partly allowed. The direction in clause (7) of the operative order of the judgment and order dated 6/5/2022 so far as the Swift car to be sold in a public auction is quashed and set aside.

10. The appellant is at liberty to make an appropriate application before the jurisdictional Court concerning C.R.No.412/2018 for return of the property. If such an application is made, the same shall be decided on its own merits and in accordance with law. I have not made any observations on merits.

11. The appeal is disposed accordingly.

(M. S. KARNIK, J.)