

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

**INTERIM APPLICATION NO.574 OF 2024
IN
CRIMINAL REVISION APPLICATION (ST) NO.2111 OF 2024**

Rakesh Alias Balasaheb Shantilal Tated ...Applicant

vs.

The State of Maharashtra and Ors. ...Respondents

Mr.Abhijit Kulkarni a/w Mr.Chinmay Patil:-	Advocates for Applicant.
Ms.Sangita E. Phad:-	APP for Respondent No.1–State.
Mr.Harsh Dedhia:-	Advocate for Respondent Nos.2 to 4.

CORAM : S. M. MODAK, J.

DATE : 24th JULY 2024

P. C. :-

1. Heard learned Advocate Shri.Kulkarni for the Applicant–First Informant, learned APP for Respondent No.1–State and learned Advocate Shri.Dedhia for contesting Respondent Nos.2 to 4–Accused.
2. The Affidavit-in-Reply filed by the contesting Respondents is taken on record.
3. The Court of Additional Sessions Judge – Barshi as per the order

dated 13th January 2017 passed in Sessions Case No.83 of 2015 was pleased to discharge the contesting Respondents for the offence punishable under Section 307 read with 34 of the Indian Penal Code, 1860 (“IPC”). However, the trial has to be conducted for the offences punishable under Sections 324, 323 read with 34 of IPC. In view of that, the case was sent to the Court of JMFC – Barshi.

4. Admittedly, the First-Informant – present Applicant was not heard when this order came to be passed. He received a summons from the Court of JMFC – Barshi for giving evidence. It was received on 22nd December 2023. Whereas, the order is dated 13th January 2017.

5. There is a delay of more than six (6) years. There are circumstances relied upon by the respondents about the knowledge to applicant earlier. They are the news published in the local newspapers – Tarun Bharat and Sakal on 20th January 2017 and 23rd January 2017. Its copies are annexed.

6. Learned Advocate Shri.Harsh Dedhia for the contesting Respondents contend the representative of the newspapers have published in the newspaper about the discharge. There is also a counter case arising out of the same incident wherein the FIR is registered against the present Applicant. That case is going on in the Court of

JMFC – Barshi. Furthermore, this Applicant was also externed and there are proceedings filed in this Court also. That is why, it is said that the Applicant was having knowledge earlier to receipt of summons. Learned APP also opposed the delay condonation.

7. Be that it may, it can't be said that the Applicant is having a personal knowledge. The knowledge can't be attributed to him. It can be attributed, if there are reference in the Court pleadings or correspondence that the Applicant is aware of that order. Unfortunately, it is not there. So, the knowledge shown by Applicant has to be accepted but there has to be cost. Hence, following order:-

ORDER

- (i) The Application is allowed in terms of prayer clause (a).
 - (ii) The delay is condoned subject to payment of cost of Rs.10,000/- (Rupees Ten Thousand Only) to be paid by the Applicant to the contesting Respondents.
 - (iii) Let it be deposited before the Court of Additional Sessions Judge – Barshi within a period of two (2) weeks from today and it may be paid to the respondents No.2 to 4.
8. In view of the above, Application stands disposed of.

[S. M. MODAK, J.]