



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPP) NO. 711 OF 2023
IN
CRIMINAL APPLICATION (APPA) NO. 744 OF 2022
IN
CRIMINAL APPEAL (ST) NO. 6343 OF 2022

Sunita w/o Suresh Pantavane

Vs.

State of Maharashtra, Thru. PSO, PS Jaripatka, Nagpur and Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Vaibhav K. Nankani, Advocate for applicant.
Ms. Trupti Udeshi, APP for non-applicant/State.

CORAM : SMT. URMILA JOSHI PHALKE, J.

DATE : 08.08.2024

By this application, the applicant is seeking condonation of delay which is caused of 65 days in filing the Criminal Application (APPA)No.744/2022, for seeking permission to file an appeal.

2. It is submitted by the learned counsel that initially, the application was filed however, due to the absence of the applicant, it is dismissed for want of prosecution. He submitted that the absence was not intentional one but the applicant, who is a lady and there was some confusion about the date and

therefore, she was absent as well as her counsel was also absent. Thus, there is just and reasonable cause for condonation of delay.

3. Learned APP strongly opposed the said application on the ground that since filing of the application, there is continuous absence, either of the applicant or her counsel and therefore, after giving sufficient opportunity, matter was listed for dismissal and finally, it was dismissed on 31.01.2023.

4. Perused the application and the grounds mentioned in the application. It is well settled that law helps to the diligents and not to the negligents. From the initial orders passed by this Court, it reveals that since filing of the application neither the applicant has appeared nor her counsel and therefore, initially, the matter was listed for “dismissal” after giving sufficient opportunity on 31.01.2023. Thereafter, again it was restored and recently it was again dismissed for default. Thus, there is absolute negligence on the part of the applicant to proceed with the application.

5. It is true that while considering the delay application, the Court has to take a liberal approach,

however, there should be sufficient and reasonable cause for condonation of delay.

6. On perusal of the application it reveals that there was some confusion regarding the dates and neither the applicant nor her counsel appeared, therefore, the application was dismissed.

7. Considering the reasons mentioned in the application, the application deserves to be allowed by imposing certain costs. In view of that, I proceed to pass the following order.

ORDER

(a) The application is allowed, subject to the costs of Rs.5,000/-.

(b) The costs is to be paid within two weeks. On failure to pay the costs, the order of dismissal would survive.

Criminal Application (APPA) No.744/2022

The appeal is filed by the applicant, who is the original complainant, against the order of acquittal.

2. In view of reasons mentioned in the application, the restoration application is allowed and the matter is restored at its original stage.
3. The criminal application is disposed of accordingly.

(SMT. URMILA JOSHI PHALKE, J)