



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

**CRIMINAL APPLICATION NO.1032 OF 2023
IN
CRIMINAL APPEAL (ST.) NO.7632 OF 2023**

(Mr. Akash Kumar s/o Shri Ramshankar Choudhary Vs. Mr. Amit Rajesh Chheniya s/o Rajesh Chheniya)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.M. Mate, Advocate for the applicant.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 1, 2024.

Heard.

2. The application is for condonation of delay of 431 days which is caused in preferring the appeal against the judgment and order passed by the Civil Judge, Junior Division, Nagpur in SCC No.26391/2017.

3. Though the notice is issued to the respondent it is not served as the respondent is not residing on a given address. The statement of the relative of the respondent shows that the respondent has left the place and he is not aware where the respondent is residing.

4. In view of Section 27 of the General Clauses Act, 1897, the notice is already issued on a given address and presumption is in favour of the present appellant.

5. As far as the contention of the present appellant is concerned, it is submitted by the learned Counsel that the appellant was not aware about the dismissal of the case, and therefore, he could not take any

appropriate proceeding, and therefore, the delay is caused.

6. Considering the reasons mentioned in the application, the delay is satisfactorily explained. It is well settled that while considering the delay application, the liberal approach is to be taken and pedantic approach is not appreciated.

7. In view of that, the application is allowed and the delay of 431 days is condoned.

8. The application is disposed of accordingly.

CRIMINAL APPLICATION (APPA) NO.128 OF 2024

APPA be registered.

2. On registration of the APPA, notice be issued to the respondent, returnable after four weeks.

(URMILA JOSHI-PHALKE, J.)

Corrected as per
Court's order dated
09/02/2024.

**Divya*