



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

CRIMINAL APPLICATION NO.161 OF 2024 IN
CRIMINAL REVISION APPLICATION ST. NO. 6145 OF 2024

Amit Nathuram Patil

..VS..

Sau. Neha Amit Patil

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S. Katkar, Advocate for the applicant.

Shri A.D. Bhate, Advocate for the non-applicant.

CORAM: SANDIPKUMAR C. MORE, J.

DATE : 18/12/2024.

Heard the rival submissions.

2. The applicant/husband is seeking condonation of delay 312 days in filing the revision application for challenging the order whereby certain maintenance is granted to the non-applicant/wife.

3. The learned Counsel for the applicant submits that the impugned order was, in fact, passed *ex parte* by the concerned Family Court Judge. Since the local lawyer engaged by the applicant at Buldana, he failed to inform him about the outcome of the proceedings.

4. On the contrary, learned Counsel for the non-applicant/wife strongly opposed the application on the ground that, every time the applicant cannot blame his own lawyer for not intimating him about the proceedings in the Trial Court. He also relied on the judgment of the Hon'ble Apex Court in the case of *Rajneesh Kumar and anr. vs. Ved Prakash (S.L.P.(Civil) Nos. 935-936/2021*, wherein the Hon'ble Apex Court made following observations :

“10. It appears that the entire blame has been thrown on the head of the advocate, who was appearing for the petitioners in the trial court. We have noticed over a period of time a tendency on the part of the litigants to blame their lawyers of negligence and carelessness in attending the proceedings before the court. Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief.”

5. The learned Counsel for the non-applicant/wife further submitted that the applicant is duly served and despite the same, he remained absent without any reasonable cause.

6. Admittedly, the Hon'ble Apex Court in recent judgment has made the aforesaid observations and thereby directed that the litigant should not be permitted to blame their own lawyer. However, there are otherwise observations also, by the Hon'ble Apex Court. Further, though the applicant/husband is found negligent in prosecuting the proceedings of which he was very much aware, but considering the fact that, the matter proceeded *ex-parte* against him, certain costs can be imposed upon him to compensate the grievance of the

non-applicant/wife.

7. The learned Counsel for the non-applicant/wife submits that the applicant/husband despite grant of maintenance, has not depositing any amount.

8. However, it is significant to note, that no stay is granted by this Court, therefore, the non-applicant can pursue the remedy of recovery of maintenance by filing an appropriate proceedings.

9. Under such circumstances, the application for condonation of delay is hereby allowed and the delay stands condoned, subject to costs of Rs.1500/- to be paid to the non-applicant/wife within two weeks.

10. The revision application be registered after deposit of costs and on removal of office objections, if any.

11. The Criminal Application disposed of accordingly.

(SANDIPKUMAR C. MORE, J.)

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