



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

933 CRIMINAL WRIT PETITION NO. 1388 OF 2020

Laxman s/o Maroti Kalme,
Age : 41 years, Occu : Agriculture,
R/o Takli(J). Tq. Degloor,
Dist. Nanded.

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through Police Station,
Mukramabad.
2. Machindra s/o Dhondiba Reddy,
Age : 52 years, Occu : Agriculture,
3. Narsingh s/o Machindra Nalbale,
Age : 33 years, Occu : Agriculture,
4. Babu s/o Gunwant Nalbale,
Age : 45 years, Occu : Agriculture,
5. Venkat s/o Babu Kalmuke,
Age : 45 years, Occu : Agriculture,

All R/o Hangaranga kd., Tq. Mukhed,
District : Nanded.

...RESPONDENTS

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Advocate for the Petitioner : Mr. Mandlik Pratap P
APP for Respondent No.1/ State : Mrs.U.S.Bhosale
Advocate for Respondent Nos. 2 to 5 : Mr. R. V. Gunale
h/f. Mr. V. D.Gunale

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CORAM : SUSHIL M. GHODESWAR J.,

DATE : 10.12.2025

PER COURT :

1. Heard Mr. Mandlik, learned counsel for the petitioner, Mr. Gunale, learned counsel for respondent Nos. 2 to 5 and learned APP for the respondent No.1/State.

2. Mr. Mandlik, learned counsel for the petitioner submitted that the petitioner is victim and he has lodged Crime No.32/2011, for the offences punishable under Sections 324, 323, 504, 506 read with Section 34 of the Indian Penal Code against respondent Nos. 2 to 5. In the said crime, the Investigation Officer has filed charge-sheet and thereafter, the matter was registered as Regular Criminal Case No.111/2011 before the learned Judicial Magistrate First Class, Mukhed, Dist. Nanded.

3. After recording the evidence on record and hearing the learned counsel for the parties, the learned Judicial Magistrate, First Class, Mukhed Dist. Nanded vide order dated 30th March 2017 acquitted respondent Nos. 2 to 5. Mr. Mandlik, learned counsel further submitted that the petitioner came to know about the passing of the said order on 27.12.2018 and therefore he filed Other Miscellaneous Criminal

Application No. 01/2019 for condoning the delay in filing the appeal against the judgment and order dated 30.03.2017. Thereafter the learned Additional Sessions Judge-2, Kandhar, Lien Court, Mukhed, District Nanded vide the impugned judgment and order dated 17.07.2020 was pleased to dismiss the application preferred by the petitioner. The learned Sessions Judge observed that there is a delay of about 548 days in preferring the said application and the petitioner has failed in giving any cogent explanation of each and every date and therefore the learned Sessions Judge rejected this application. The petitioner therefore assailed the said order before this Court.

4. Mr. Mandlik learned counsel for the petitioner submits that the petitioner filed an application for condonation of delay for filing of appeal against acquittal. He had approached to the learned Sessions Judge under Section 372 of the Code of Criminal Procedure being the victim. He further submits that he being a victim he has a remedy of filing appeal against the judgment of acquittal under Section 372 of Cr.P.C. and filing such appeal, the provisions of Limitation Act, 1963 are not applicable.

5. In support of his submissions, he is relying on the order passed by the Hon'ble Division Bench of this Court in the case of ***Ranjana***

Shantilal Suryawanshi Vs. Jaiprakash Tulsiram Gupta in Criminal Application No.380/2019 in Criminal Appeal (St.) No. 390/2019 on 16th July, 2020. The copy of the said order dated 16th July, 2020 is already annexed to this petition. He has invited the attention of this Court in paragraph Nos. 14, 19 and 21 is as follows :

“14. We notice, however, that no period of limitation has been prescribed for the victim to prefer appeal against the judgment of acquittal in terms of proviso to Section 372 of the Code.

19. We also would like to examine the issue in the light of provision of Section 5 of the Limitation Act, 1963. It provides that any appeal or application other than those provided in Order XXI of the Code of Civil Procedure, may be admitted after the prescribed period, if the appellant or applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period.

21. In the present case, we have already concluded that statute does not provide period of limitation vis-a-vis Section 372 of the code. However, we are concerned with the expression ‘sufficient cause appearing in the Section 5 of the Limitation Act. ‘Sufficient cause’ is a concept in law depending on fact and circumstances of each case. It has always been understood to be a cause which is beyond control of person concerned and is bona fide. There are plethora of judgments which time and again have spared judicial attention and interpreted the term ‘sufficient cause’.”

6. And therefore, Mr. Mandlik, learned counsel submits that learned

Sessions Judge has committed grave mistake in rejecting this petition for condonation of delay.

7. Mr. Gunale, learned counsel however, strongly opposed the submissions made by Mr. Mandlik. He submits that the petitioner has virtually failed in providing day to day explanation justifying his application for condoning the delay. According to Mr. Gunale, the delay was huge and was intentional one and in absence of giving explanation, the learned Sessions Judge has rightly rejected to consider the said application. As such no interference is required by this Court in the said order. He, therefore, prayed for maintaining the said order and rejecting this writ petition.

8. After hearing the learned counsel for both the parties particularly going through the judgment delivered by the Division Bench of this Court in the case of ***Ranjana*** (*supra*), it is clear that the provisions of the Limitation Act that no period of limitation has been prescribed for victim to file an application and appeal under Section 372 of the Code of Criminal Procedure, 1973. The said order of Division Bench is passed after considering the numerous judgments passed by the Hon'ble Apex Court. Therefore, the impugned order passed by the learned Sessions Judge is incorrect and quashed to be set aside. In that

view of the matter, said petitioner succeeds. Hence, following order :

ORDER

- (i) Criminal Writ Petition No.1388 of 2020 is allowed.
- (ii) The impugned judgment and order dated 17.07.2020, passed by the learned Additional Sessions Judge-2, Kandhar, Lien Court, Dist. Nanded, in Other Misc. Criminal Application No. 01/2019 is quashed and set aside.
- (iii) The delay in filing Criminal Appeal is condoned.
- (iv) The matter be registered before the learned Sessions Court, Kandhar in Criminal Appeal under Section 372 of the Code of Criminal Procedure.
- (v) Criminal Writ Petition is disposed of accordingly.

(SUSHIL M. GHODESWAR)
JUDGE

shp/-