



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

917 CRIMINAL APPLICATION NO. 2177 OF 2018

The State Of Maharashtra

VERSUS

Bebibai @ Vithabai Santosh Chaudhary And Others

...

Mrs. Kalpalata Patil Bharaswadkar - Public Prosecutor for
Applicant/State

Mr. C.C. Deshpande – Advocate for Respondent No. 6 & 3

...

CORAM : R. G. AVACHAT

AND

NEERAJ P. DHOTE, JJ.

DATED : 05TH MARCH, 2025

PER COURT : -

1. This is an Application for condonation of 748 days delay caused in preferring the Application for Leave to Appeal by the State.
2. It is submitted by the learned APP for the Applicant/State that the sufficient reasons are stated in the Application for condonation of delay. She submits that the said delay be condoned and the Application be allowed.
3. The Application is opposed by the learned Advocate for the Respondent Nos. 3 and 6. None for the other respondents.
4. We have perused the Application. The impugned Judgment and Order of the learned Trial Court is dated 30.03.2016. It is stated

that the tenure of the P.P. came to an end. Thereafter, new P.P. was appointed and his tenure also came to an end. For better understanding, we reproduce the relevant contents of the Application.

- “2. The applicant says and submit that, the Special Case (POCSO) No. 33/2013 (State of Maharashtra through Deopur Police Station, Dhule Vs. Bebibai @ Vithabai Chaudhary and others) was conducted by the then District Government Pleader, Dhule, namely Shri. S.R.Patil. The Ld.Addl.Sessions Judge, Dhule after hearing the prosecution and the accused persons was pleased to acquit the accused persons by judgment and order dt. 30.3.2016. The tenure of the said Dist. Government Pleader Shri. S.R. Patil came to an end on 5.7.2016. The proposal of preferring an Appeal was not forwarded by the said Dist. Government Pleader up to 5.7.2016. Thereafter, on 6.7.2016, the new Dist. Government Pleader came to be appointed. The tenure of the new Dist. Government Pleader also came to an end on 6.6.2017. During the said period, the then Dist. Government Pleader did not noticed and forwarded the proposal challenging the judgement and order dt. 30.3.2016 to the office of Jt. Secretary, Law and Judiciary Department, Aurangabad.*
- 3. The applicant says and submit that, thereafter on 16.8.2017 the new Incharge District Government Pleader was appointed and his tenure was up to 14.5.2018. During this entire period, the appeal proposal did not forwarded to the office of Jt. Secretary, Law and Judiciary Department, Aurangabad. The applicant say and submit that, on 24.6.2016, Advocate Smt. R.B. Pande was appointed as Asst. Government Pleader however, since the Special Case (POCSO) no. 33/2013 was not allotted to her therefore, she was not aware about the judgement and order passed in the said case. The applicant say and submit that, since Advocate Smt. R.B. Pande was appointed on 24.6.2016 and the*

judgement and order was passed prior to her appointment and the then Dist. Government Pleader had conducted the case has not forwarded the proposal was not known to her. The applicant further humbly say and submit that, since she was not aware about the judgement and order prior to her appointment and she was not aware that, the subsequently appointed District Government Pleader's were not forwarded the said appeal proposal.

- 4. The applicant says and submit that, the Joint Secretary, Law and Judiciary Department, Aurangabad on 30.7.2018 directed the District Government Pleader, Dhule to submit the report and opinion in the said matter on merits alongwith the entire relevant papers as early as possible. The Joint Secretary further directed the District Government Pleader to treat this request as most urgent.*
- 5. The applicant says and submit that, the Incharge District Government Pleader considering the seriousness of the case, immediately submitted the proposal to prefer Criminal Appeal against the judgement and order passed by the Addl. Sessions Judge, Dhule in Special Case (POCSO) No.33/2013 alongwith grounds of objection to the Jt. Secretary, Law and Judiciary Department, Aurangabad.*
- 6. The applicant says and submit that, after receipt of the proposal alongwith relevant papers and certified copies of judgement and order dt. 30.3.2016 alongwith notes of evidence, the Government of Maharashtra by resolution dt. 31.7.2018 bearing Resolution No. 352/2018-JUD/989/2018 resolved to challenge the judgement and order dt. 30.3.2016 before this Hon'ble Court. Accordingly, the Jt. Secretary, Law and Judiciary Department, Aurangabad directed the Public Prosecutor, High*

Court Bench at Aurangabad to file an Appeal in the Hon'ble High Court u/sec. 378 (1)(b) of Code of Criminal Procedure, 1973 against the judgement and order dt. 30.3.2016 passed by the Addl. Sessions Judge, Dhule in Special Case (POCSO) No. 33/2013."

5. In view of the above, we find that there is sufficient explanation given by the Applicant/State and hence, we allow the Application in terms of prayer clause 'B'.

[NEERAJ P. DHOTE]
JUDGE

[R. G. AVACHAT]
JUDGE

SG Punde