



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4723 OF 2024

IN

CRIMINAL REVISION APPLICATION STAMP NO. 12912 OF 2024

Balasaheb s/o Kundlik Dhage

Age : 52 years, Occupation Agriculture,

R/o. Shendra,

Taluka and District Parbhani.

... Applicant

Versus

Sow. Kamalbai Balasaheb Dhage

Age : 47 years, Occupation Household,

R/o. Shendra,

Taluka and District Parbhani.

At present Kanhegaon, Taluka Purna,

District Parbhani.

... Respondent

.....

Mr. A. S. Jagtap, Advocate h/f Mr. A. N. Nagargoje, Advocate for the Applicant.

Mr. Amit A. Mukhedkar, Advocate for the Respondent

.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 07.03.2025

Pronounced on : 11.03.2025

ORDER :

1. Instant application is for condonation of delay of 932 days caused in filing Criminal Revision Application.

2. Learned counsel for the applicant submitted that the order dated 03.02.2022 passed by learned Judge, Family Court, Parbhani in

Criminal M.A. No. 08 of 2021 was sought to be challenged by filing revision. However, there is delay in filing the same. He pointed out that moreover, the impugned order dated 03.02.2022 is *ex parte*. He further pointed out that initially matter was on the file of learned J.M.F.C., Parbhani, but on account of establishment of Family Court, matter came to be transferred and re-numbered. That, there was no notice of such transfer or re-numbering by the learned Family Court. Therefore, according to learned counsel, whatever delay has occurred is due to above reasons, which needs to be condoned in the interest of justice. Finally, he prays to allow the application by condoning the delay.

3. Above application is strongly opposed by learned counsel for the respondent by placing affidavit-in-reply on record, whereby all submissions and contentions raised in the application are refuted. According to learned counsel for the respondent, delay is huge and applicant is not coming with clean hands. That, there is suppression of facts. That, in fact the impugned order is of February 2022. Therefore, attempt is made after almost two years and eight months. It is pointed out that, the Family Court was also required to issue several arrest warrants and therefore, it is submitted that, with such conduct of the applicant, his case of unintentional delay is not

trustworthy and believable. On the above grounds, the application is strongly opposed.

4. After considering the submissions advanced by both sides and on going through the papers, it seems that parties are husband and wife. Wife seems to have instituted Criminal M.A. No. 8 of 2021 and said application was decided by learned Judge, Family Court, Parbhani on 03.02.2022. Against the said order, revision is sought to be filed, but there is said to be delay. Primary ground for condonation of delay is that said order by Family Court was *ex parte*. Secondly, proceedings were transferred from the file of learned J.M.F.C. to the Family Court and there was no notice. However, on affidavit, it has been refuted by learned counsel for the respondent pointing out that learned Family Court was required to issue several warrants of arrest against applicant as he was evading proceedings, and he was also required to be kept behind bars. Finally execution proceedings seems to be instituted before the learned Family Court. There is force in the submission that applicant was aware of the previous proceedings before learned J.M.F.C. and its transfer to the Family Court. There is no explanation for failure to prosecute. The learned Family Court, in para 3 of the impugned order itself, has stated that respondent, though served with notice, did not appear before the court and hence

ex parte proceedings were conducted. Therefore, submissions made before this Court that there was no notice and directly *ex parte* order was passed, is apparently improper. Delay is said to be of 932 days, i.e. almost two years and eight months. Every day's delay is expected to be explained. The reasons for delay are not convincing and therefore, this Court finds no reason to condone the same. Hence, following order is passed :

ORDER

The application is rejected.

[ABHAY S. WAGHWASE, J.]

vre