



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

2 CRIMINAL APPLICATION NO.4868 OF 2024
IN APPLN/3438/2023

KAMILKHA NURKHAN PATHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Ms. Pratiksha Magre h/f Mr. S. G. Magre, Advocate for Applicants.
Mrs. P. R. Bharaswadkar, APP for Respondent No.1/State.
Mr. Rehan Khan h/f Mr. G. R. Syed, Advocate for Respondent No.2.
...

**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 22 JULY 2025

ORDER :

. Present application has been filed for condoning the delay of 150 days in filing the application to recall the order dated 11.03.2024 in Criminal Application No.3438 of 2023 and for restoration of the said criminal application at its original stage.

2. Heard learned Advocate appearing for the applicants, learned APP for respondent No.1/State and learned Advocate for respondent No.2, who appears *suo moto*.

3. It appears that the notices came to be issued in the main application on 16.10.2023. Respondent No.2 appear through Advocate. On 05.02.2024, a statement was made that since the charge-sheet has

been filed, the applicants want to amend the petition and place the copy of the charge-sheet on record. The said leave was granted. However, it appears that during the period that was given to the applicants, they had not carried out the amendment and, therefore, on 11.03.2024, a conditional order came to be passed and time of four weeks was granted for carrying out the amendment and annexing the copy of the charge-sheet. It was also stated that if the compliance is not made, then the matter would stand dismissed automatically without reference to the Court. It appears that in the said extended period of four weeks also, the applicants had not carried out the amendment and placed the charge-sheet on record.

4. Learned Advocate Ms. Pratiksha Magre holding for learned Advocate Mr. S. G. Magre for the applicants submits that since the applicants had not made available the copy of the charge-sheet to the Advocate, the Advocate could not carry out the amendment. We are not convinced with the reason, yet since the applicants have shown their readiness to carry out the amendment and now readiness is shown to place the copy of the charge-sheet on record, we condone the delay and recall the order dated 11.03.2024 passed in Criminal Application No.3438 of 2023. However, for the inconvenience that has been caused, the applicants should deposit cost of Rs.5000/- to the High Court Legal Services, Sub Committee, Aurangabad within a period of one week.

5. The applicants are allowed to carry out the amendment in Criminal Application No.3438 of 2023 within a period of two weeks, by placing the copy of the charge-sheet on record. Copy of the amended application along with copy of the charge-sheet be supplied to the other side in advance.

6. Place the matter for further consideration on 22.08.2025.

7. We make it clear that in case of failure on the part of the applicants to abide any term/condition, then the order dated 11.03.2025 would get revived.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm