



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

**CRIMINAL APPLICATION NO.4926 OF 2024
IN
CRIMINAL APPLICATION NO.3998 OF 2023**

Vijay S/o Bhaskar Mhaske
and others

...APPLICANTS

VERSUS

The State of Maharashtra
and another.

...RESPONDENTS

...
Mr. Rajendra L. Kute Advocate for Applicants.
Mr. S.A. Gaikwad, A.P.P. for Respondent-State.
...

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

DATE : 5th FEBRUARY, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. The Application has been filed for condonation of delay of 6 days in filing application for restoration of Criminal Application No.3998 of 2023, which came to be dismissed for not taking steps by the applicant by order dated 30th September 2024.

2. Respondent No.2 was not served in the original Application and therefore, there is no necessity to serve him again.

3. From the record, it can be seen that the original application was filed for quashing the proceedings in R.C.C. No.707 of 2023 pending before the learned Judicial Magistrate First Class, Court No.2, Latur, arising out of FIR vide Crime No.79 of 2023 registered with Vivekanand Chowk Police Station, Latur, District-Latur on 1st February 2023 for the offence punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

4. By order dated 8th July 2024, notice was issued to respondents and learned APP waived notice for respondent No.1. Private service was permitted. By order dated 19th August 2024, the notice of respondent No.2 was awaited. The police report received that respondent No.2 was not residing at the given address and the inquiry on telephone to respondent No.2 was made, whereupon she told that she is residing at Nashik with her parents. Then by order dated 30th September 2024

applicant was directed to take steps in respect of respondent No.2 within a period of three weeks and if the steps are taken, then the notice to be issued to respondent No.2 on the fresh address which was then made returnable on 11th November 2024. It was the conditional order which stated that in case of failure to take steps within the stipulated time, the application would stand dismissed automatically without further reference to the Court. It appears that the applicant had not taken steps nor supplied the fresh address within the period of two weeks as granted in the order dated 30th September 2024 and therefore, the Application was treated as dismissed thereafter.

5. Now, the learned Advocate for the applicants submits that he would furnish the fresh address of respondent No.2. He submits that inadvertently the steps have not been taken within stipulated time and the matter has been dismissed and therefore, present application has been filed.

6. It is to be noted that order dated 9th September 2024 would have been uploaded on the next day or within a reasonable period, nor more than four days. It was for the applicant as well as learned Advocate representing him to keep track. The orders are available on the Website. Further, as

aforesaid, by order dated 8th July 2024, the liberty was given to the applicant to serve respondent No.2 privately and the matter was then to come up on 19th August 2024. On that day, no document was produced to show that respondent No.2 has been privately served. Thereafter, as aforesaid, on 30th September 2024, conditional order was passed.

7. Be that as it may. Since now the applicants are ready to take steps as against respondent No.2, we allow the present Application. We recall the order dated 30th September 2024 passed in Criminal Application No. 3998 of 2023. Accordingly, Criminal Application No.3998 of 2023 stands restored at its earlier stage.

8. In Criminal Application No.3998 of 2023, applicants to file affidavit regarding the present address of respondent No.2. There upon the notice to be issued to respondent No.2 which will be made returnable six weeks thereafter.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE