



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION NO.44 OF 2023

IN

CRIMINAL REVISION APPLICATION (ST.) NO.1186 OF 2023

(Sau. Sonali w/o Gananath Shenoy Vs. Gananath s/o Vishwanathan Shenoy and ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S. Sambre, Advocate h/f Mr. M.P. Kariya, Advocate for the applicant.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JANUARY 8, 2025.

By this application, the applicant is seeking condonation of delay which is caused in preferring the present application challenging the order passed by the Additional Sessions Judge – 9, Nagpur by which Criminal Appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005 is dismissed.

2. Notice was issued to the respondents. After sufficient opportunity no reply is filed. The earlier orders passed by this Court show that the respondents have obtained time on various occasions and last chance was granted on 18/12/2024 subject to the costs of Rs.1000/-. Respondent Nos.1 to 4 neither filed reply nor paid the costs, and therefore, matter is taken for passing the order on it.

3. As per the contention raised in the application the applicant is legally wedded wife of non-applicant No.1

and their marriage was solemnized on 15/02/2013 at Nagpur. After marriage, there was discord between them, and therefore, applicant started residing separately. It is the contention of the applicant that the mother of the applicant was unfortunately died in the year 2009 due to the cardiac arrest. Being elder in the family the applicant has to adjust all family members and has to take care all, after the death of her father but due to the untimely death of the applicant's mother, her father has also suffered. The non-applicant No.1 after getting knowledge had approached to the applicant, introduces himself and thereafter the marriage was performed. But there was a discord between them, and therefore, she filed a domestic violence proceeding. The domestic violence proceeding was not decided in her favour, and therefore, she preferred an appeal which was dismissed. Therefore, the present application along with appeal has preferred.

4. She submitted that she has engaged the Counsel to defend herself however, due to some reasons they could not proceed with the applications, and therefore, she was not aware about the passing of the order, and therefore, the delay is caused. There is sufficient and reasonable cause for condonation of delay.

5. Learned Counsel for the applicant reiterated the said contention and submitted that considering the object of the Protection of Women from Domestic Violence

Act, 2005 is to protect the women and she was subjected for the Domestic Violence Act, and therefore, she claimed various reliefs from the non-applicants. She also engaged the Counsel to deal with her application but somehow they could not represent her for some reasons and the appeal was dismissed. The applicant shall be permitted to litigate her cause on its own merits. There is no intentional delay on her part, and therefore, the application deserves to be allowed.

6. I have heard learned Counsel for both the sides. On going through the application and relevant documents on record, it reveals that though she has engaged the Counsel she was not intimidated, and therefore, the delay is caused. There is satisfactory reasons for the condonation of delay. Moreover, it is well settled that while considering the application for condonation of delay, liberal approach is to be adopted and not the pedantic approach. Considering the reasons mentioned in the application, the application deserves to be allowed.

7. Hence, the application is allowed and the delay is condoned.

8. The criminal revision application be registered.

(URMILA JOSHI-PHALKE, J.)