



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO. 855 OF 2025
IN
CRIMINAL APPEAL (ST) NO. 4545 OF 2024

Ajay Ashokrao Kohale (dead) Thru. LRs Vs. Ashok Yadaorao Larokar

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Ms. Parita Lakhani, Advocate h/f Mr. M.P. Kariya, Advocate for
applicant.
None for respondent.

CORAM : M.M. NERLIKAR, J.

DATE : 24.11.2025

Heard the learned counsel for the
applicant. None for respondent.

2. Upon hearing the learned counsel for the
applicant, leave is granted to prefer the appeal.
Office is directed to register the appeal.

3. The application is disposed of accordingly.

CRIMINAL APPEAL NO. _____ 2025:

Admit. The appeal is taken up for final
hearing.

2. The learned counsel appearing for the appellant submits that the case was instituted in the year 2010. However, in 2015, the complainant died. Thereafter, the application for condonation of delay in bringing legal heirs on record was filed on 29.12.2015, however, without deciding that application, the complaint came to be dismissed in default.

3. This is an appeal directed against the order dated 14.10.2016 passed by the learned 26th Joint Civil Judge, Junior Division and J.M.F.C, Nagpur, wherein the complaint of the complainant was dismissed under Section 256 of the Code of Criminal Procedure for want of prosecution and accordingly, the accused was acquitted.

4. It appears that the original complainant died in the year 2015, and therefore, the application for condonation of delay in bringing legal heirs of deceased complainant was filed by the present applicants, who are the legal heirs. The impugned order dated 14.10.2016 which is passed under Section 256 of the Code of Criminal Procedure, the Court has not applied its mind to the proceedings, as the condonation of delay application was pending with the learned Judicial Magistrate First Class, Nagpur. In the absence of any order on the aforesaid application filed by the legal heirs of the deceased complainant, further order dismissing the

complaint for want of prosecution is non-application of mind.

5. The learned Trial Court ought to have gone through the records and proceedings of the case and thereafter, ought to have passed the order of dismissal for non-prosecution. As the complainant died in the year 2015, unless and until, the legal heirs are brought on record, the further proceedings cannot take place. Therefore, as observed in the impugned order that the very conduct of complainant shows that he does not want to proceed with the case, these observations are made without any application of mind.

6. In this view of the matter, I deem it appropriate to quash and set aside the order dated 14.10.2016 passed under Section 256 of the Code of Criminal Procedure thereby dismissing the complaint for want of prosecution and further, acquitting the accused.

7. It is further directed that the application which is pending before the learned Magistrate for condonation of delay for bringing legal heirs of deceased complainant on record shall be decided on its own merits by the Judicial Magistrate First Class at Nagpur. Accordingly, the appeal is allowed in above terms.

8. The complaint is restored to its original stage/position. The application filed at Exhibits 23 and 24 be decided as per the above directions.

9. The parties shall appear before the Court on 10.12.2025.

(M.M. Nerlikar, J.)