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

CRIMINAL REVISION APPLICATION NO.257 OF 2023

Naresh Prasad s/o. Devsharan Singh,
Aged 70 years, Occupation : Nil,
R/o. New Majari Colliery,
Taluka Bhadrawati, District Chandrapur. **APPLICANT**

// VERSUS //

- 1) Harendra S/o. Ramawadh Singh,
Aged about 40 years,
Occupation: Transporter.
- 2) Dharamveer S/o. Ramawadh Singh,
Aged about 45 years, Occupation: Transporter.
- 3) Ramawadh S/o. Ganga Singh,
Aged about 72 years, Occupation : Retired,
- 4) Birendra S/o. Baban Singh,
Aged about 52 years, Occupation : Service,

Nos.1 to 4 R/o. New Housing Colony,
New Housing Quarters, New Majari Colliery,
Post: Shivji Nagar, Taluka Bhadrawadi,
District Chandrapur.

- 5) State of Maharashtra,
Through Police Station Officer,
Warora, Taluka Warora,
District Chandrapur.

.... RESPONDENTS

Mr. S. N. Singh, Counsel and Mr. A. M. Chandekar, Counsel
for the applicant.
Mr. Rajnish Vyas, Counsel for the respondent Nos.1 to 4.
Mr. V. A. Thakare, APP for respondent No.5/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20.01.2025

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ORAL JUDGMENT :

1. **Admit.**

2. Heard finally with the consent of learned Counsel appearing for the parties.

3. By preferring this revision application, the applicant has challenged the order passed by the learned Additional Sessions Judge, Warora dated 05.09.2023 allowing the objection raised by the Superintendent and appeal is dismissed for want of limitation.

4. The facts giving rise to the present revision application shows that Harendra Ramawadh Singh and other accused were charged for the offence punishable under Sections 324 and 504 read with Section 34 of the Indian Penal Code. After recording the relevant evidence, the learned trial Court acquitted the said accused persons. Being aggrieved and dissatisfied the same, the victim i.e. present applicant Naresh Prasad s/o Devsharan Singh preferred an appeal against the acquittal under Section 372 of Code of Criminal Procedure (in short 'Cr.PC.'). On submission of the appeal, the Superintendent of the establishment of the Additional Sessions Judge, Warora raised an objection that appeal is not within limitation and the application for condonation of delay is not filed along with the

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appeal memo. The learned Additional Sessions Judge by passing order held that objection of the Superintendent is sustained and for want of limitation the appeal is dismissed.

5. Learned Counsel for the applicant submitted that in fact, no limitation period is prescribed for preferring the appeal under Section 372 of Cr.P.C. and invited my attention towards the provision Section 372 of Cr.P.C. and submitted that the proviso of Section 372 of Cr.P.C. only states that within reasonable period that appeal should be filed. He further submitted that as the limitation period is not provided under Articles 114 or 115 of the Limitation Act that victim must to prefer an appeal within a reasonable period. In support of his contention, he placed reliance on **Amit s/o. Bhagirath Mishra Vs. The State of Maharashtra & Anr.** reported in **2016 ALL MR (Cri.) 5181** wherein this Court has considered the aspect that no limitation period is prescribed but the appeal should be filed within a reasonable period. He submitted that without being an application for condonation of delay it is observed by the Additional Session Judge that there was no sufficient and reasonable cause for condonation of delay. In fact, the opportunity is not granted to the present applicant to prefer an application for condonation of delay.

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6. Learned APP for the State and learned Counsel for the respondents strongly opposed the application and submitted that the appeal should be filed within the limitation period though a specific limitation period is not provided. He submitted that the guidelines are issued by the Division Bench of this Court in the case of **Ranjana Shantilal Suryawanshi Vs. Jaiprakash Tulshiram Gupta and Anr.** reported in **2020 ALL MR (Cri) 2926** and by the said guidelines it is mentioned that the copy of the order of acquittal is to be forwarded to the District Magistrate so that the victim shall get knowledge about the acquittal. He submitted that as there was no reasonable cause for preferring the appeal at a belated stage, the appeal is rightly dismissed.

7. After hearing both the side and on perusal of the entire record it reveals that the appeal is filed by the applicant against the acquittal. The impugned Judgment of acquittal was passed on 07.01.2019, whereas the appeal was preferred on 17.02.2021. The objection was raised by the Superintendent that appeal is not within limitation and on that while passing the order, the learned Additional Sessions Judge held that there is no sufficient and reasonable cause for filing an appeal at a belated stage. In view of the observation of the Division Bench of this Court in the case of **Amit s/o. Bhagirath Mishra** (supra)

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on which the learned Counsel for the applicant placed reliance on and states by referring its earlier Judgment that there is no limitation provided for filing of such an appeal against acquittal by a victim; but it firmly held that such appeal should be filed within a reasonable period of time. Now, as a matter of fact, the question whether the limitation for filing an appeal by a victim from order of acquittal did not fall for consideration before the Division Bench, nor any question to that effect was framed in the case of Balasaheb. According to us, therefore, the Division Bench Judgment in the case of Balasaheb is not an authority for the proposition that no limitation is provided for filing of an appeal against an order of acquittal and that such appeal should be filed within a reasonable period. The aspect of limitation for filing of an appeal against acquittal is governed by Article 114 of the Limitation Act. It is interesting to note that the said question fell for consideration before the Full Bench of the Punjab & Haryana High Court in the case of **M/s. Tata Steel Ltd., Vs. M/s. Atma Tube Products Ltd. & others [decided on 18th March, 2013]** and by referring the relevant paras of the said Full Bench Judgment it is held that it is clear from the above discussion, there is no provision of limitation for filing of an appeal by the victim under proviso to Section 372 of the Code and period of limitation for the purpose of filing appeal by victim shall be as under i.e. appeal lies to the High Court 90 days where the appeal

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lies to the another Court 60 days. It is further held that the appeal by the victim is to be filed within a reasonable period. The similar ratio has laid down by this Court by the Division Bench in **Ranjana Shantilal Suryawanshi** (supra)

8. In view of the decision of both the Judgments it would be appropriate in the present case to give a liberty to the present applicant to file an application for condonation of delay and the necessary opportunity is to be granted to the other side to oppose the application and on its own merits by ascertaining whether there was a reasonable cause or not. The said application for condonation of delay is to be decided by the learned Additional Sessions Judge, Warora,. In view of that I proceed to pass following order:

ORDER

- (i) The order passed by the learned Additional Sessions Judge, Warora dismissing the appeal and by sustaining the objection of Superintendent is hereby quashed and set aside.
- (ii) The liberty is granted to the applicant to file an appropriate application for condonation of delay.
- (iii) The Additional Sessions Judge shall give an opportunity to the other side to raise an objection appropriately and after ascertaining whether the applicant succeeded in showing there was reasonable cause or not to prefer an appeal at a belated stage.
- (iv) The application is to be decided on its own merits.

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9. The revision application is disposed of.

10. Pending application(s), if any, shall stand disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)

Sarkate.