



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3319 OF 2025
IN
CRIMINAL REVISION APPLICATION (ST) NO. 8198 OF 2025

Virbhadra Bhujangrao Swami

..APPLICANT

VERSUS

Manik Vitthalrao Kathmande and Another

..RESPONDENTS

....
Mr. M.C. Swami, Advocate for Applicant

Mr. S.L. Bhapkar, Advocate for Respondent No.1

Mr. D.B. Bhange, A.P.P. for Respondent no.2 - State

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CORAM : ABHAY J. MANTRI, J.

DATE : 08th JUNE 2026

PER COURT :

1. The Applicant / Original Complainant has moved this Application to condone the **delay of 1316 days** in filing the Criminal Revision Application for enhancement of compensation.

2. Heard learned counsel for the Applicant and Respondent No.1, as well as the learned A.P.P. for Respondent No.2 at length.

3. Having heard learned counsel for both the parties and perusal of record, at the outset it appears that the Applicant had filed complaint bearing S.C.C. No. 914 of 2012 under Section 138 of the Negotiable Instruments Act against Respondent No.1 before the learned J.M.F.C., Osmanabad, wherein the

learned Magistrate by order dated 28th January, 2016 convicted the Respondent No.1 and sentenced to suffer simple imprisonment for Thirty days. He was also directed to pay compensation of Rs. 4,30,000/- to the complainant, i.e., the present Applicant. Aggrieved by the said order, Respondent No.1 has preferred an Appeal bearing No.13 of 2016 before the learned Sessions Court, Osmanabad, for quashing the said judgment and order. However, the Applicant had neither preferred any Appeal nor filed any application before the learned Sessions Court for seeking enhancement of the compensation.

4. The learned Sessions Court vide judgment and order dated 21st September, 2021, dismissed the Appeal and confirmed the order passed by the learned Trial Court. Against the said order, Respondent No.1 has preferred Criminal Revision Application No. 123 of 2021 before this Court. However, the Applicant had not preferred any Appeal or proceedings before the learned Sessions Court, as well as before this Court till the receipt of notice of the Revision Application No. 123 of 2021. Upon receipt of the notice, the Applicant preferred Criminal Writ Petition No. 1087 of 2025 on 29th July, 2025, as he did not prefer any proceedings against the order of the learned Magistrate.

5. On 07th August, 2025, during argument in the writ petition, the Applicant sought leave to convert the criminal writ petition into a criminal revision application. Accordingly, leave was granted; therefore, the writ petition was converted into a Revision Application. The Revision application was not

preferred within the limitation period; therefore, this application was filed for condonation of the delay in filing the Revision Application.

6. I have gone through the Application. In Paragraph No. 7, he stated that, due to the COVID-19 pandemic, he could not file a Revision Application within the stipulated time. Paragraph 8 states that the delay was attributable to a lack of knowledge of the legal remedy for counter-revision. In para 5, he states that he appeared in Revision Application No. 123 of 2021 and was under a bona fide impression that no separate was required on his part.

7. As against, learned counsel for the Respondent No.1 vehemently resisted the Application by filing a detailed affidavit-in-reply, contending that the Application is not maintainable as the Applicant had not preferred any Appeal or proceedings before the learned Sessions Court against the Judgment and order of the learned Magistrate. Alternatively, it is contended that the Applicant has not given any satisfactory reason for condonation of the delay in filing the Revision Application. He therefore urged rejection of the Application.

8. It is pertinent to note that before the COVID-19 pandemic began, the limitation period to file an Appeal or any proceedings for seeking enhancement of compensation had expired on 28th February, 2016. Similarly, the Appeal preferred by the Respondent No.1 was disposed of by the learned Sessions Court on 21st September, 2021, and the 90-day limitation period for filing the Revision had expired on 21st December, 2021.

9. It is worth noting that the Applicant appeared in the Appeal No. 13 of 2016 through Advocate and contested the same on merit. Likewise, the Applicant, on 10th December, 2021, appeared in the Revision application bearing No. 123 of 2021 preferred by the Respondent No. 1 against the order of the learned Sessions Court, through an Advocate. The said facts themselves indicate that the Applicant was receiving just and proper legal advice through his Advocate from time to time; therefore, it cannot be said that the Applicant was under a bona fide impression that no separate revision was required to be filed by him or that he lacked legal knowledge about filing an appeal or revision. So, I do not find any substance in the said grounds or reasons stated in the Application in that regard.

10. Another ground raised regarding the COVID-19 pandemic, for which he has not given sufficient reason or explanation as to why he had not preferred any Appeal or proceedings before the learned Sessions Court against the Judgment and order of the learned Magistrate in 2016 itself, when he appeared in the Appeal filed by the Respondent and contested the same, and at that time, the COVID-19 pandemic had not began. Even after the disposal of the said Appeal on 21st September, 2021, he, through his Advocate, appeared in the Revision application bearing No. 123 of 2021 preferred by the Respondent No. 1 on 10th December, 2021, but failed to exhaust any legal remedy till the filing of this Application or Criminal Writ petition, when he was assisted with the legal

advice. No satisfactory reason or explanation is brought on record for non-filing of the proceedings for more than 8 years from the judgment and order of the learned Magistrate and more than three and a half years from the order of the learned Sessions Court.

11. The Applicant has not stated any satisfactory reason as to why he has not filed a revision, appeal or any proceeding after the passing of the orders by the learned Magistrate or Sessions Court till filing of the Criminal Writ Petition. Therefore, I do not find any substance in his contention that due to the COVID-19 pandemic, he could not file the revision or any proceeding before this Court in time. Secondly, the Applicant contends that due to a lack of knowledge about legal remedies, he could not file the proceeding. The Hon'ble Supreme Court, in a catena of judgments, has observed that lack of knowledge of the legal remedy is not a ground for condonation of delay. On the contrary, it has come on record that he had contested the Appeal and also appeared in the Revision Application filed by the Respondent and assisted with the legal Advice, and also is aware of the filing of the appeal by the Respondent before the learned Sessions Court. He has contested the said appeal; as such, it cannot be said that he was unaware of the legal remedies. Therefore, I do not find any merit in the contentions of the Applicant in that regard.

12. In light of the above discussion, the reasons the applicant has provided for condonation of delay are insufficient and vague. Therefore, the

applicant has not made out sufficient cause in the application, and the reasons mentioned in the application are insufficient, inadequate, vague and unpalatable and far away from the requirements of law under Section 5 of the Limitation Act. So, I do not find any such sufficient cause or reasonable explanation in the application. On the contrary, it seems that the Applicant was aware of the legal remedies, but he failed to exhaust them. Also, it reveals that the Applicant was careless and negligent in prosecuting the remedies available in law within the stipulated time. “*Vigilantibus non dormientibus jura subveniunt*”, which means the law helps those who are vigilant about their rights, not those who have knowledge and neglect them. Thus, it appears that the Applicant has failed to explain the inordinate delay nor given a satisfactory reason for the condonation of the delay of 1316 days in filing the revision application. Therefore, the application is sans merits.

13. In view of the same, the *Criminal Application being bereft of merits, stands rejected.*

(ABHAY J. MANTRI, J.)

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