



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4079 OF 2025
IN CRIMINAL APPEAL (ST.) NO. 11278 OF 2025

Vaijayantabai Vyankat Gaikwad,
Age : 67 years, Occ: Labor,
R/o: Hangarga (P.K.), Tq. Mukhed,
District Nanded.

... Applicant
[Orig. Informant]

Versus

1. The State of Maharashtra
Through Police Inspector,
Police Station, Mukhed,
District Nanded.
2. Khandu Jalba Gaikwad
Age : 58 years,
Occupation : Agriculture,
R/o : Hangarga (P.K.),
Tq. Mukhed, Dist. Nanded.
3. Nandkumar Khandu Gaikwad
Age : 35 years,
Occupation : Agriculture,
R/o : Hangarga (P.K.),
Tq. Mukhed, Dist. Nanded.
4. Sidharth Khandu Gaikwad
Age : 33 years,
Occupation : Agriculture,
R/o : Hangarga (P.K.),
Tq. Mukhed, Dist. Nanded.

... Respondents
[Res. Nos. 2 to 4 Ori. Accused]

.....
Mr. Umakant B. Deshmukh, Advocate for the Applicant.
Mr. S. K. Shirse, APP for Respondent No.1 State.
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 13.01.2026

Pronounced on : 14.01.2026

ORDER :

1. Present application is for condonation of 303 days delay caused in filing appeal against judgment and order of acquittal passed by learned Additional Sessions Judge, Mukhed dated 12.08.2024 in Criminal Appeal No. 2 of 2021 arising out of judgment and order dated 17.02.2021 passed by learned J.M.F.C., Mukhed in RCC No. 132 of 2016.

2. It is submitted that present applicant is original informant, who had set law into motion by approaching Mukhed Police Station regarding occurrence dated 24.06.2016 resulting into commission of offence under Sections 452, 294, 354-B, 323, 504 r/w 34 of IPC. He pointed out that, trial was conducted against present respondents vide R.C.C. No. 132 of 2016, however, the same resulted into acquittal and applicant had challenged the said order of acquittal before learned Additional Sessions Judge by filing Criminal Appeal No. 2 of 2021 which came to be dismissed by order dated 12.08.2024. It is further submitted that, for filing appeal against the same, this Court is approached, however, there is delay in filing appeal.

3. According to learned counsel, applicant is an old aged lady, who is not aware of the legal procedure for filing appeal, that too within stipulated limitation. Coupled with it, there was economic distress and as such she could not take effective steps within time, resulting into delay. Learned counsel further pointed out that, even otherwise, applicant being victim, there is no limitation for filing appeal under Section 372 of Cr.P.C. and on this count, he seeks reliance on the order of this Court dated 02.05.2019 passed in Criminal Application No. 3090 of 2018.

4. In spite of causing appearance, none present for respondent nos. 2 to 4 even when matter being kept back.

5. Learned APP raised formal objection, but concedes about law being settled by the Hon'ble Apex Court in the case of ***Mallikarjun Kodagali (D) rep. through L.Rs v. State of Karnataka and others*** 2018 ALL SCR (Cri) 1843.

6. After considering the above submissions, it emerges that, on report lodged by present applicant, initially crime was registered for above referred offences and on investigation, present respondents

appeared to be tried vice R.C.C. No. 132 of 2016 which seems to have resulted in acquittal, and on same being challenged before Additional Sessions Judge, Criminal Appeal bearing no. 2 of 2021 also came to be dismissed.

7. Informant, who is a lady of 67 years of age, intends to question both the order of the courts below and intends to invoke Section 372 of Cr.P.C. for filing appeal against order of acquittal. She being victim, has the right to question the acquittal.

8. Taking into account the above legal position clarified by this Court in above referred Criminal Application and in the interest of justice, the delay caused in filing appeal deserves to be condoned. Hence, following order :

ORDER

- I. Criminal Application is allowed in terms of prayer clause (B). Delay stands condoned.
- II. Registry to register the appeal.
- III. Criminal Application is accordingly disposed off.

[ABHAY S. WAGHWASE, J.]