

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1841 OF 2026**

Praful Manohar Vaidya ... Petitioner.

Versus.

The State of Maharashtra ... Respondent.

Mr. Kapil Dave, Advocate for the Petitioner.

Mrs. Rajeshree Newton, APP for the State.

PI Mr. Ajay Ghosalkar, LT. Marg Police Station Mumbai, and PSI
Mr. Kailas N. Dhaware, Pairavi, Police Station, is present.

CORAM : ASHWIN D. BHOBE, J.

DATED : 22nd April 2026

P.C.:

1. Heard Mr. Kapil Dave, learned Advocate for the Petitioner and Mrs. Rajeshree Newton, learned APP for the State.

2. Petitioner, by this Petition filed under Articles 226 and 227 of the Constitution of India read with Section 528 of the BNSS, 2023, assails the Judgment and Order passed by the Court of Sessions, Greater Bombay, at Bombay (hereafter “Sessions Court”) in Criminal Revision Application No. 794 of 2007, by which the

Sessions Court upheld the Order passed by the Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai (hereafter “Magistrate”), dismissing the Application dated 30.09.2006 seeking discharge, filed by the Petitioner in Criminal Case No. 61/PW/2006 and consequently ordered the framing of Charge.

3. There are three Accused charge-sheeted in Criminal Case No. 61/PW/2006 and the offences are punishable under Sections 406, 420 read with Section 34 of the Indian Penal Code, 1860. Petitioner is Accused No. 1.

4. Mr. Kapil Dave, learned Advocate for the Petitioner, commenced his submissions by stating that the Order passed by the Magistrate in Criminal Case No. 61/PW/2006, rejecting the Application seeking discharge filed by the Petitioner, as confirmed by the Sessions Court in Criminal Revision Application No. 794 of 2007, is illegal and would cause injustice to the Petitioner. He relied on the decision of the Hon’ble Supreme Court in *Delhi Race Club (1940) Ltd. vs. State of Uttar Pradesh & Anr.*¹ to contend that the Orders impugned in this Petition are liable to be set

¹ (2024) 10 SCC 690

aside.

5. Upon this Court noting the dates on which the Orders impugned in this Petition were passed and the date of the filing of this Petition, the trajectory of the case shifted from the merits to the issue of “*Vigilantibus non dormientibus jura subveniunt*”, i.e. the law assists those who are vigilant, not the indolent.

6. Thus, for the purpose of adjudication of this Petition, the relevant material facts as mentioned in the Petition memo are as follows:

- a. By order dated 18.04.2007, the Magistrate dismissed the Application for discharge filed by the Petitioner in Criminal Case No. 61/PW/2006. Consequently, the charge was ordered to be framed.
- b. Petitioner challenged the order dated 18.04.2007 before the Sessions Court in Criminal Revision Application No. 794 of 2007.
- c. Vide order dated 24.12.2008, the Sessions Court

dismissed the Criminal Revision Application No. 794 of 2007.

d. This Petition is filed on 25.02.2026 (as per the date mentioned on the memo of the Petition).

7. The Petition memo comprises twelve (12) paragraphs. The Petition is silent on the issue of delay/laches in filing. There is neither any averment of delay in filing this Petition nor any mention in the Petition memo of the delay of **17 years and 2 months** from **24th December, 2008, till 25th February, 2026**, in filing this Petition.

8. In light of the definite facts as narrated in the preceding paragraph nos. 6 (a) to (d) and keeping in mind that the law of limitation is founded on public policy enshrined in the legal maxim “*interest reipublicae ut sit finis litium*”, i.e. it is for the general welfare that a period of limitation be put to litigation, the object being to put an end to every legal remedy and to have a fixed period of life for every litigation, Mr. Kapil Dave, learned Advocate for the Petitioner, was afforded an opportunity to address why this Petition, filed after an unexplained inordinate

delay of 17 years and 2 months, should be entertained.

9. Mr. Kapil Dave, learned Advocate for the Petitioner, by acknowledging that the Petition memo contains no averments regarding delay/laches or any explanation for approaching this Court after 17 years and 2 months, submits that no limitation period is prescribed for filing a Writ Petition and therefore no explanation is required for the period from 24th December, 2008 to 25th February, 2026.

10. Though no period of limitation is prescribed under the Limitation Act, 1963, for the exercise of powers under Articles 226 or 227 of the Constitution of India, there must be no inordinate delay, laches or negligence on the part of the litigant in approaching the Court.

11. Although styled as a Petition under Articles 226 and 227 of the Constitution of India, read with Section 528 of the BNSS, this Petition essentially invokes the supervisory jurisdiction of this Court by way of a writ of Certiorari, as evident from the reliefs sought. Accordingly, the Petitioner ought to have approached this Court within a reasonable period. The question before this Court

is whether a delay of 17 years and 2 months in filing this Petition is reasonable?

12. The limitation period for a Criminal Revision Application under the Code of Criminal Procedure 1973 (now BNSS 2023) is 90 days, as per Article 131 of the Schedule to the Limitation Act 1963. Article 137 of the Schedule to the Limitation Act 1963 provides a limitation period of three years for any Application for which no period of limitation is specified elsewhere in the Schedule (Period of Limitation) of the Limitation Act 1963.

13. Petitioner, having approached this Court after a period of 17 years and 2 months to challenge the order dated 24.12.2008 passed by the Sessions Court in Criminal Revision Application No. 794 of 2007, is subject to the principles of delay and laches.

14. The Hon'ble Supreme Court, in *State of M.P. vs. Nandlal Jaiswal & ors.*², in paragraph no. 24, has held as follows:

24. Now, it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there

² (1986) 4 SCC 566

is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy under the writ jurisdiction because it is likely to cause confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important factor which always weighs with the High Court in deciding whether or not to exercise such jurisdiction. We do not think it necessary to burden this judgment with reference to various decisions of this Court where it has been emphasised time and again that where there is inordinate and unexplained delay and third party rights are created in the intervening period, the High Court would decline to interfere, even if the State action complained of is unconstitutional or illegal. We may only mention in the passing two decisions of this Court one in Ramana Dayaram Shetty v. International Airport Authority of India [(1979) 3 SCC 489 : AIR 1979 SC 1628 : (1979) 3 SCR 1014] and the other in Ashok Kumar Mishra v. Collector [(1980) 1 SCC 180 : AIR 1980 SC 112 : (1980) 1 SCR 491] . We may point out that in R.D. Shetty case, even though the State action was held to be unconstitutional as being violative of Article 14 of the Constitution, this Court refused to grant relief to the petitioner on the ground that the writ petition had been filed by the petitioner more than five months after the acceptance of the tender of the fourth respondent and during that period, the fourth respondent had incurred considerable expenditure, aggregating to about Rs 1.25 lakhs, in making arrangements for putting up the restaurant and the snack bar. Of course, this rule of laches or delay is not a rigid rule which can be cast in a strait jacket formula, for there may be cases where despite delay and creation of third party rights the High Court may still in the exercise of its discretion interfere and grant

relief to the petitioner. But, such cases where the demand of justice is so compelling that the High Court would be inclined to interfere in spite of delay or creation of third party rights would by their very nature be few and far between. Ultimately it would be a matter within the discretion of the court; ex hypothesi every discretion must be exercised fairly and justly so as to promote justice and not to defeat it.

15. In *Chennai Metropolitan Water Supply and Sewerage Board and Others vs. T.T. Murali Babu*³, the Hon'ble Supreme Court, in paragraph no. 16, has held as under:-

16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.

³ (2014) 4 SCC 108

16. In *Popat Bahiru Govardhane Vs. Land Acquisition Officer*⁴, in paragraph no. 16, the Hon'ble Supreme Court has observed as follows:

*"16. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." (See *Martin Burn Ltd. v. Corpn. of Calcutta* [AIR 1966 SC 529] , AIR p. 535, para 14 and *Rohitash Kumar v. Om Prakash Sharma* [(2012) 13 SCC 792 : AIR 2013 SC 30].) *Bombay Dyeing & Mfg. Co. Ltd. v. State of Bombay* 1957 SCC OnLine SC 7."*

17. The Hon'ble Supreme Court, in *N. Balakrishnan v. M. Krishnamurthy*⁵, in paragraph no. 11, has observed as follows:

"11. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the

4 (2013) 10 SCC 765

5 (1998) 7 SCC 123

redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”

18. The Petitioner appears to have accepted the decision of the Sessions Court passed in Criminal Revision Application No. 794 of 2007 in the year 2008 and as such, chose not to challenge it at the earliest opportunity. If not for that reason, the Petitioner is guilty of negligence, inaction and the adoption of dilatory tactics. The absence of any explanation for the delay in the Petition memo, let alone any averment regarding it, leads to the conclusion that this Petition is filed as an afterthought, in the most casual manner, taking the Court proceedings for granted.

19. The period from 24th December 2008 to 25th February 2026 (17 years and 2 months) for challenging the order dated 24.12.2008 passed by the Sessions Court in Criminal Revision

Application No. 794 of 2007 cannot, by any stretch, be termed a “reasonable period”. Petitioner would fall into the category of the tardy and the indolent, or the acquiescent and the lethargic litigant.

20. For want of averments in the Petition memo regarding delay and laches, this Court is unable to test “sufficient cause” for the period from 24th December, 2008 to 25th February, 2026, in relation to delay and laches.

21. In view of the inordinate delay, laches, negligence and want of due diligence, this Court is unable to exercise its discretionary jurisdiction to entertain this Petition, which is filed after 17 years and 2 months. No case for indulgence is made out.

22. Mrs. Rajeshree Newton, learned APP for the State, submits that the Petitioner attempted to make out a case of urgency, despite there being none. Further, instead of pointing out the exorbitant delay of almost 18 years in filing this Petition, Mr. Kapil Dave, learned Advocate for the Petitioner, opened the arguments on merits. The Petition memo does not even whisper about the delay in filing this Petition. Mrs. Rajeshree Newton, learned APP

for the State, submits that the filing of this Petition is an abuse of the process of law and accordingly, insists that this Petition be dismissed with exemplary costs on the Petitioner.

23. This Court was inclined to impose costs on the Petitioner, however, after being persuaded by Mr. Kapil Dave, learned Advocate for the Petitioner, not to impose costs, costs are not imposed.

24. This Petition is dismissed.

(ASHWIN D. BHOBE, J.)

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