

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2111 OF 2004  
(For condonation of delay)  
IN  
CRIMINAL APPEAL NO. 289 OF 2003

The State of Maharashtra

vs.

Pandharinath Rama Bhoir & ors.

Applicant

Respondents

Ms.U.V.Kejriwal, Addl. Public Prosecutor for the State.

Mr.Shrikant Gavand for respondents 1 to 10.

**CORAM : R. M. LODHA &  
R. S. MOHITE,JJ.**

**DATED : 28th February 2005**

**P.C.**

Vide judgment dated 17th July 2002 the Ist Adhoc Additional Sessions Judge, Raigad-Alibag acquitted the present respondents of the offences punishable under Sections 147, 148, 307/149, 324/149 and 323/149 of the IPC. Dissatisfied with the judgment of acquittal, the State preferred criminal appeal on 5th March 2003. The criminal appeal being time barred, by this application for condonation of delay it is prayed that delay caused in filing the criminal appeal be condoned.

2. The application for condonation of delay indicates that the application for certified copy of the judgement dated 17th July 2002 was made on 22nd July 2002. The certified copy was ready on 5th August 2002 and

delivered on that date. The Public Prosecutor, Raigad-Alibag by his opinion dated 23rd August 2002 to the Law and Judiciary Department, Mantralaya, Mumbai suggested appeal being preferred against the judgment of acquittal. The papers were scrutinised by the Law and Judiciary Department and Government Resolution dated 29th November 2002 was issued and the Public Prosecutor, High Court, Appellate Side, Mumbai was directed to file criminal appeal against the judgment of acquittal. The Government resolution dated 29th November 2002 was received by the office of Public Prosecutor on the same day i.e. 29th November 2002. However, criminal appeal was presented only on 5th March 2003. The reason assigned for delay is that the matter was assigned to Shri S.R.Shinde, Additional Public Prosecutor, who was extremely busy in attending various courts as well as important and urgent bail applications and, therefore, the appeal could be filed only on 5th March 2003. It is stated that the Government resolution for filing the appeal was received only after limitation of filing the appeal had expired.

3. There is delay of 127 days in filing the criminal appeal. The said delay, in our opinion, does not deserve to be condoned for the reasons which we indicate hereafter. It appears that after excluding the time taken in obtaining certified copy, the limitation for

filing the appeal was upto 30.10.2002. In the circumstances, the Law and Judiciary after receiving the papers from the Public Prosecutor on or about 23.08.2002, must have acted swiftly. There is no explanation why they took time upto 29.11.2002 in taking decision of filing appeal. Then delay for the period from 29th November 2002 until 5th March 2003 by the office of Public Prosecutor also does not seem to be explained sufficiently. That the Additional Public Prosecutor who was assigned the brief was extremely busy in attending various courts as well as important and urgent bail applications during this period is a make believe ground. The fact of the matter is that during this period the High Court had Christmas vacation for two weeks and, therefore, during this period there was no question of the concerned Additional Public Prosecutor in being extremely busy in attending important and urgent bail applications. The ground set up for condonation of delay does not constitute the sufficient cause.

4. The application for condonation of delay is accordingly rejected.

**(R.M. LODHA,J.)**

**(R.S. MOHITE,J.)**