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ORDER BELOW EXH-1
(Passed on 18th March, 2019)

This is an application filed by the Investigating Officer under section 473 of Cr.P.C. seeking the condonation of delay in filing the charge sheet.

According to the Officer In-charge of police station, the accused has committed an offence punishable under section 184 and 185 of Motor Vehicle Act. Hence, police officer was duty bound to present the charge sheet within one year from the date of commission of offence as per section 468(2) of Code of Criminal Procedure because the punishment provided for both the offence is not more than one year. But, in this case, the investigating officer has not presented the charge-sheet within the time limit and therefore, the instant application for accepting the charge-sheet with the grant of relief of condonation of delay has been filed under section 473 on two grounds i.e the investigating officer was busy in maintaining law and order(Bandobast duty) and he was busy in investigation of other cases.

As per section 473 of Cr.P.C, the investigating officer is under obligation to explain and justify the delay with proper and cogent reasons. But, having gone through contention of application, I am of the opinion that the delay is not satisfactorily explained and the approach of the investigating officer in launching the prosecution appears to be casual and negligent. For recording above observations, I find that there is no iota of evidence to show that how investigating officer was so busy because no dates of specific duties of bandobast and number of cases investigated by him during the period are mentioned in the application. No material has been placed in support of the application to justify the stand. Hence, I find

that above two reasons cited by the investigating officer are having no base or iota of material. In this context, I seek to rely on the authority in the case of *State -vs- Jagannathrao & others, 1982 CrLJ 118*, wherein Hon'ble High Court observed that *no doubt Sec. 473 of Criminal Procedure Code gives desecration to the court to take cognizance of an offence after the expiry of period of limitation, provided it is satisfied on facts and in the circumstances of the case that the delay has been properly explained or that it is necessary to do so in the interest of justice. It is cardinal principle of law that whenever the desecration is vested in a court, it must always be judicially exercise. Such mechanical extension of time without any basis is clearly an abuse of the process of law. In the absence of material before the court, it may be held that delay in launching prosecution in this case has not at all the explained nor it can be said that in this case it is necessary to condone the delay in the interest of justice. Therefore, cognizance should not have been taken after the expiry period of limitation.*

So, it is clear that the condonation of delay is not a mere formality, but the relevant aspects for the condoning the delay are required to be decided with care and caution, as the valuable right of the accused is involved in this adjudication. Therefore, I am of the opinion that the application is devoid of merit and therefore, it needs to be rejected due to foregoing reason and discussion. Hence, the following order is passed.

Order

1. Application stands rejected and the proceeding is disposed of accordingly.

Date 18.03.2019

(M.R. Washimkar)
J.M.F.C.(M.V.) Court, Nagpur.