

17.03.2026

Present : Sh. Simranjit, Sh. Taranveer Singh Gandhi and
Sh.H.V. Gupta, Ld. Counsels for the revisionist.
Sh. Girish Giri, Ld. Addl. PP for the
State/respondent.

Vide the instant revision petition, the revisional jurisdiction of this court has been invoked u/s 438 BNSS, assailing the order of the Ld. Trial Court dated 09.04.2025, passed in Complaint case bearing Ct. Case No. 5296263/2016, titled 'State Vs. Saurab Gupta' vide which the application for recalling the witnesses i.e. PW1 and PW2, were partly allowed, restricted to the cross-examination of PW1 only.

Along with the present revision petition, an application u/s 5 of The Limitation Act has been filed on behalf of the revisionist seeking condonation of delay in filing the present revision petition.

Submissions heard on the aforesaid application. Record perused. It is mentioned in para 2 of the said application that the court staff apprised the applicant/revisionist that his application u/s 311 Cr.PC was allowed but on 24.07.2025, the applicant's counsel came to know that the application was partially allowed and only complainant has been allowed to be recalled/re-examined. Thereafter, the applicant met his counsel for taking steps but real aunt (*Tayji*) of the counsel expired on 15.10.2025 and subsequently the real grand mother of the accused was hospitalized due to which accused/revisionist could not meet the advocate. It is submitted that the delay in filing the

revision is not intentional and it was beyond the control of the revisionist. It is prayed that delay of in filing the instant revision, may be condoned.

Per contra, Ld. APP for the State has argued that the applicant/revisionist has been deliberately delaying the proceedings and in fact the witnesses i.e. complainant/PW1 and ASI Ram Bharose/PW2 were examined on 21.10.2019 but the application for recall of the said witnesses under section 311 Cr.P.C. was filed belatedly in April, 2025. It is further submitted that even the application for condonation of delay in filing the revision petition is devoid of merits as the order dated 09.04.2025 was passed in the presence of Ms. Garima Singh, Ld. Counsel for the applicant/revisionist. Hence the application for condonation of delay merits outright rejection.

Since application for condonation of delay has been moved u/s 5 of The Limitation Act, for ready reference Section 5 of The Limitation Act, is reproduced herein below:

Section 5 The Limitation Act : Extension of prescribed period in certain cases.

Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation : The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section.

From the bare reading of the Section, it is clear that the delay can be condoned provided “Sufficient Cause” is shown by the revisionist for not being able to file the revision within the

limitation, but the delay has to be explained day by day.

In the case of ***Maniben Devraj Shah Versus Municipal Corporation of Brihan Mumbai, in Civil Appeal Nos. 2970-2971 of 2012***, the Hon'ble Apex Court has referred to the judgment, i.e. ***N. Balakrishnan Vs. M. Krishnamurthy, decided by the Hon'ble Supreme Court of India on 03.09.1998***, and has held that:-

“It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion

In the case of ***Popat Bahiru Govardhane Etc. Vs. Special Land Acquisition Officer & Anr. in Civil Appeal Nos. 6976-6980 of 2013, decided by the Hon'ble Supreme Court of India on 22.08.2013***, the Hon'ble Apex Court has observed as under:

“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...”

From the cumulative reading of all the judgments, it is clear that though the court should adopt a liberal and reasonable approach while adjudicating upon the application for condonation of delay in filing of the appeal or revision where the

applicant is able to show “Sufficient Cause” for not being able to file the revision, within the limitation prescribed. It is axiomatic that “Sufficient Cause”, which is required to be explained day by day, should not be laced with gross negligence, deliberate inaction or something akin to misconduct as the same would disentitle the appellant/revisionist, from seeking indulgence of the court.

In this backdrop, when the case in hand is adverted to, and the TCR is scrutinized, it is found that the revisionist has not even mentioned the number of days of delay in filing the instant revision and also the day to day delay has not been explained in the said application. Perusal of the record reveals that on the date when the order was passed i.e. on 09.04.2025, the revisionist was legally represented through his counsel. Once the order comes into the knowledge of any litigant, it is for him to make preparation for filing of the revision promptly. The negligence on the part of revisionist is writ large. This is not a case, where the revisionist did not have any legal representation but had the assistance of the legal brain throughout.

However, in the case of *Santosh & Ors. Vs. Shri Tek Chand*, 134(2006) DLT 332, the Hon’ble High Court of Delhi held that, “*rules of procedure are handmaidens to the end of justice and should not be permitted to effect substantial justice.*” Keeping in view the fact that the matter ought to be decided on merits and not on technical ground, the circumstances, which have been shown, need to be considered leniently. Hon’ble Supreme Court in a case titled, *UT of J&K & Ors. Vs. Faizan Ahmad Wani & Ors.*, Civil Appeal No(s). 846/2025 {Special

Leave Petition (Civil) No(s). 1905/2025 – Diary No. 12844/2024 has condoned the delay subject to cost.

Taking a liberal view, and in the larger interest of justice, the application for condonation of delay is allowed, and the delay in filing of the instant revision is condoned subject to deposit of costs of Rs.2000/- with DLSA, North, Rohini, Delhi. Receipt of the same shall be shown by the revisionist to the Court on the next date of hearing.

Put up for arguments on the revision petition on 25.03.2026.

(PREM KUMAR BARTHWAL)
Principal District & Sessions Judge
North District/Rohini Courts/Delhi
17.03.2026