

Date of institution	13.02.2026
Date of registration	13.02.2026
Date of decision	29.04.2026



**IN THE COURT OF 10TH ADDITIONAL SESSIONS
JUDGE AHMEDABAD (RURAL) AT NAVARANGPURA**

CRIMINAL MISC. APPLICATION NO. 471 OF 2026

Applicant :

Name	Rushika Jeet Chavda W/o. Jeet Maheshbhai Chavda
Age	35 Years,
Occupation	Housewife,
Address	18, Shrushti Bungalow, Shivranjani, Satellite, Ahmedabad.

V/s.

Respondents:

(1)	Name	State of Gujarat
(2)	Name	Jeet Maheshbhai Chavda
	Age	35 Years,
	Occupation	Business,
	Address	21, Sangini Bungalow, Near Sindhubhavan Hall, Thaltej, Ahmedabad.

Appearance (Learned Advocates):

Applicant	Party-in-person
For State	Ld. PP Mr. P. M. Trivedi
For Respondent No.2	Mr. T. S. Momin

ORDER BELOW EXHIBIT ONE

1. The present Criminal Miscellaneous Application has been filed by the applicant-originally complainant who is seeking to challenge the order of awarding interim maintenance to

her passed by the Ld. 6th Additional Chief Judicial Magistrate, Ahmedabad [Rural] below Exhibit:51 in Criminal Misc. Application No.442 of 2019 dated 12.11.2025 [for short “the impugned order”]. It has been submitted that the applicant received certified copy of the impugned order on 25.11.2025. It has been further submitted that the respondent no.2-husband of the applicant has preferred Criminal Appeal No.431 of 2025 seeking modification and set-off of the interim residence relief granted to the applicant. It has been further submitted that upon receipt of notice in that proceedings, the applicant without delay appeared before the Court and also submitted her reply along with the list of documentary evidence. It has been further submitted that earlier the applicant was advised that filing of a separate appeal is not required and that all her grievances could be addressed within the reply of her husband’s appeal and, therefore, the applicant was actively prosecuting the appeal filed by her husband. It has been further submitted that the upon further independent legal study and subsequent consultation, the applicant realized that filing of separate appeal is appropriate and recognized remedy to challenge the said order. It has been further submitted that the applicant is a woman litigant and is appearing party-in-person and she is involved in 10 to 11 ongoing litigations. It has been further submitted that the applicant is compelled to personally prepare, pleadings, attend hearings, represent herself and respond to multiple interim applications , causing substantial emotional, physical and financial strain, which has contributed to the delay. It

has been further submitted that the Hon'ble Supreme Court in the case of **Anantnag Vs. Mst. Katiji** reported in **(1987) 2 SCC 107** has held that a pragmatic and liberal approach must prevail over technicalities, when substantial justice is at stake. It has been further submitted that in the case of **N. Balakrishnan V. M. Krishnamurthy** reported in **(1998) 7 SCC 123**, has held that length of delay is immaterial where the explanation is bona fide and no malafide are attributable. Further, it has been submitted that in the case of **State of Nagaland Vs. Lipok Ao** reported in **(2005) 3 SCC 752**, it has been held that procedural delays should not defeat substantive rights, especially of women litigants seeking statutory protection. It has been further submitted that the delay caused in preferring an appeal is not willful delay and if the present application is allowed, no prejudice will be caused to the other side, whereas, grave and irreparable prejudice will be caused to the applicant if her statutory right is rejected. With these submissions, it has been prayed that the present application may be allowed and delay of 57 days occurred in preferring an appeal may be condoned.

2. The Ld. PP for the respondent no.1-State has prayed to pass appropriate order in context of present application.
3. Upon service of summons, the respondent no.2 appeared through his Ld. Advocate and filed his reply at Exhibit:6. It has been submitted that the applicant has not come before this Court with clean hands and has suppressed material facts before this Court. It has been further submitted that there is miscalculation in computing days of delay as there is delay of 63 days and not 57 days. It has been further

submitted that the applicant has not disclosed sufficient cause for condoning delay, but, only vague and unreasonable explanation are given. It has been further submitted that sole intention of the applicant is to create multiplicity of proceedings and drag the respondent no.2 into various litigations and harass him. It has been further submitted that 10-11 litigations are ongoing between the parties and the same cannot be a valid reason for condoning delay. It has been further submitted that delay occurred in filing an appeal is not procedural delay, but, the same is a counterblast and an afterthought. It has been further submitted that in the case of Maniben Devraj Shah Vs. Mumbai Corporation of Brihan Mumbai, reported in (2012) 5 SCC 157, the Hon'ble Apex Court has held that if the Court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides then, it may condone the delay and if the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone delay. As such, it has been prayed that the present application may kindly be dismissed.

4. I have heard the Ld. Advocates and perused the case file.
5. This Court has taken into consideration arguments canvassed by learned Advocate for the applicant and also gone through the record of the case. As a settled position of law at this stage, the Court is not required to go too deeply to enter into the merits and demerits of the main appeal, but is only to be satisfied as to whether the applicant was prevented from filing an appeal within the period of limitation or not. This

Court is conscious of the fact that while deciding the application for condonation of delay this Court is to arrive at subjective satisfaction as to whether sufficient cause is made out for condonation of delay or not.

6. In the case on hand, admittedly, there is a delay of **57 days or as per the say of respondent 63 days** in preferring an appeal. The applicant has assigned reasons for delay occurred in filing an appeal. The applicant has come with a case that around 10 to 11 litigations are ongoing between the applicant and the respondent no.2 and she is prosecuting the litigations as party-in-persons. Further, earlier she was advised not to file an appeal, however, upon independent study and further consultation, she gained knowledge that a separate appeal should be filed for her remedy. In these circumstances, there is delay in filing an appeal. Admittedly, the applicant is prosecuting her case as party-in-person. In the case on hand, Though there is negligence and inaction on the part of applicant in not preferring an appeal within time, yet, right to file an appeal is a statutory right and a party must be given an opportunity to contest her case on merits rather than on technicalities. In these circumstances, this Court finds that the sufficient cause is made out to condone the delay. It is settled position of law that technicalities are required to be given go-by so as to do substantial and real justice and merely on the ground of technicalities, the merits/demerits of the matter may not be brushed aside.
7. From the above principles of law, it emerges that there can be no straight jacket formula for accepting or rejecting the explanation furnished for the delay. Each case would have to

be decided on the basis of the facts and circumstances obtaining therein. What would constitute sufficient cause, would therefore, be dependent on the peculiar facts of the case. However, when no inaction, negligence or lack of bona fides can be imputed from the facts of the case, adopting a hyper-technical view regarding the explanation furnished, is not warranted. Therefore, without going into the merits at present and the reasons submitted by the applicant in the application, it seems that sufficient cause has been shown by the applicant for not preferring the appeal within the prescribed period of limitation. Hence, following order is passed in the interest of justice:

∴ ORDER ∴

- (1) The present Application is hereby **allowed**.
- (2) The delay in filing appeal against the order dated 12.11.2025 passed by the Ld. 6th Additional Chief Judicial Magistrate, Ahmedabad [Rural] below Exhibit:51 in Criminal Misc. Application No.442 of 2019 is hereby condoned.
- (3) Registry is hereby directed to register the appeal in accordance with law.
- (4) No order as to costs.

Pronounced and signed in the open Court on this 29th day of April, 2026 at Ahmedabad.

Date : 29.04.2026

Place: Ahmedabad

[Hardik R. Shah]

10th Additional Sessions Judge,
Ahmedabad (Rural) at Navarangpura.
UIC No.GJ00851.