

GJGS030003072026



Received on : 02.06.2026

Registered on : 02.06.2026

Decided on : 04.08.2026

Duration : 02 - Month and
02 - Days.

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BEFORE THE HON'BLE 3rd ADDITIONAL SESSIONS JUDGE,
AT UNA, DISTRICT GIR-SOMNATH,

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Criminal Misc. (Delay) Application No. 114 of 2026

Exh. _____

- 1. Bhavkeshbhai Babubhai Solanki,**
Age:-36 years, Occupation:- Seaman,
R/o. :- 16-2, Bhuteshwar Housing Society,
At Ghoghla (Diu), Pin – 362520.
- 2. Babubhai Ramjibhai Solanki,**
Age:-68 years, Occupation:- Retired,
R/o. :- 16-2, Bhuteshwar Housing Society,
At Ghoghla (Diu), Pin – 362520.
- 3. Vijayaben Babubhai Solanki,**
Age:-64 years, Occupation:- Household,
R/o. :- 16-2, Bhuteshwar Housing Society,
At Ghoghla (Diu), Pin – 362520.
- 4. Varshaben W/o. Girishbhai Pateliya,**
Age:-41 years, Occupation:- Household,
R/o. :- Near water tank, Bandar Chowk,
At Ghoghla (Diu), Pin – 362520.
- 5. Priyankaben W/o. Vinodbhai Baraiya,**
Age:-37 years, Occupation:- Household,
R/o. :- 16-2, Bhuteshwar Housing Society,
At Ghoghla (Diu), Pin – 362520.

....Applicants

Versus

1. **Dhrutignaben W/o. Bhavkeshbhai Solanki,**
Age:-29 years, Occupation:- Household,
(Mother and natural guardian of minor applicant No.2)
2. **Minor Dharmik S/o. Bhavkeshbhai Solanki,**
Age:-8 years, Occupation:- Study,

Both R/o. :- Near Rammandir, Navabandar,
Ta.:-Una, District Gir-Somnath

....Opponents

Appearance:-

Ld. Advocate Mr. S. B. Upadhyay for the applicants.

Ld. Advocate Mr. T. R. Desai for the opponents.

Subject:-Application for condonation of delay.

:-: J U D G M E N T :-:

1. The present Application is filed for condonation of delay of **33 days** occurred in filing of accompanying Criminal Appeal against the Judgment dated: **30.03.2026** passed in Criminal Miscellaneous Application No. **73 of 2022** by the **Ld. Additional Chief Judicial Magistrate, Una.** ("Ld. Trial Court" for short).
2. The Ld. Trial Court partly allowed Domestic Violence Application filed by the original applicants and certain orders were passed against the applicants herein.

3. Ld. Advocate for the Applicants, while arguing, reiterated all the contents of the Application and has submitted that as the applicants were unaware of the legal procedure and the applicant No.1 is working as a seaman in the ship and he has recently returned at Ghoghla (Diu) before 15 days and therefore, he was not aware of the said judgment of Ld. Trial Court and therefore, delay in preferring appeal against the impugned order has taken place. Ld. Trial Court has passed the impugned judgment ex-party against the applicants herein. The said circumstances were beyond the control of the applicants and there was *bonafide* intention on the part of applicants. For the said reasons, the accompanying Appeal has been filed with delay which is neither intentional nor because of any *malafide* intention. At the end of his oral submissions, Ld. Advocate has prayed to condone the said delay.
4. On service of notice, the opponents have appeared through their Ld. Advocate and filed their written objections against present application for condonation of delay vide Exh.7, wherein it is submitted that, the facts as mentioned in the present application are not true and the applicants have not mentioned proper reasons for delay. It is submitted by Ld. Advocate for the opponents that the assertions made by the applicants are far from the truth. The applicants were aware of the impugned judgment, but

they sat idle for a long period of time. It is also submitted by Ld. Advocate for the applicants that, the order / judgment of the Ld. Trial Court is not ex-party judgment, the discharge application filed by the applicants No.4 and 5 have been dismissed by Ld. Trial Court. The recovery amount of Rs.2,67,000/- is pending against the applicants herein. Applicants have not shown reasonable reasons for delay of 33 days in filing appeal and therefore, he has prayed to reject the application. In support of his submission, Ld. Advocate for the opponents has relied upon the decisions of Hon'ble Supreme Court and Hon'ble High Courts as well as principles governing Condonation of Delay.

5. This Court has considered contentions of the Application and reply and has gone through the entire material available on record.
6. The present accompanying Appeal against the impugned order has been filed by the Applicant. There is delay of **33 days**. The reasons canvassed in the application for delay are that, as the applicants were unaware of the legal procedure and the applicant No.1 is working as a seaman in the ship and he has recently returned at Ghoghla (Diu) before 15 days and therefore, he was not aware of the said judgment of Ld. Trial Court and therefore, delay in preferring appeal against the impugned order has taken

place. The reason of unawareness of the legal knowledge does not seem to be reasonable, but looking to the period of delay which is prayed to be condoned is meager, it would not be appropriate to reject delay condonation application.

7. However, the applicants desire to challenge the impugned judgment passed in Domestic Violence Application by the Ld. Trial Court and the reasons cited for the delay seem to be reasonably explained. The appeal is a statutory right provided to the applicants. The applicants want to exhaust their remedy by filing appeal. I have gone through reply filed by opponents herein and judgments produced by them, but looking to the factual matrix of the case and meager delay, it would not be appropriate to throw rights of applicants herein. In the catena of judgments, Hon'ble Supreme Court and Hon'ble High Court have settled the law to the effect that the delay has to be construed liberally against order of Ld. Trial Court. The mixed question of law and facts is involved in the accompanying appeal, which requires adjudication on merits. Therefore, the delay in filing the accompanying appeal is required to be condoned and therefore, in view of the above, following order is passed.

-:: O R D E R ::-

1. Present Application for condonation of delay is hereby **"Allowed"** and the delay of **33 days** in filing of the accompanying Appeal is hereby condoned.
2. The Registry is directed to register the Appeal accordingly and place the same before this Court.

Signed and pronounced today in Open Court on this the **04th** day of **August, 2026**.

Date :- 04/08/2026
Place :- Una

(Sunil Mahendrabhai Govani),
3rd Addl. Sessions Judge,
Una, District: Gir-Somnath.
UID : GJ00918