

Received on : 12/12/2025
Registered on : 12/12/2025
Decided on : 15/04/2026
Duration : YY MM DD
00 04 03

Exh. :- _____

IN THE HON'BLE COURT OF THE SESSIONS JUDGE
JUNAGADH

Criminal Misc. Application No. 842 of 2025

Applicant :-

The State	—	—	Office of
Through: The Government			District
Pleader			Government
			Pleader,
			Junagadh

V E R S U S

Opponents :-

1 Parti Bhagvanjibhai	36	Service	Junagadh
Kaneriya			
2 Daxaben Bhagvanjibhai	62	Household	
Kaneriya		work	

Appearance :-

Ld. Addl.P.P. **Shri V. N. Madhak** for applicant.
Ld. Advocate **Shri S. D. Chaglani** for opponents.

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

Facts of the original case :-

1. The original complainant filed a complaint against the

present opponents for offences punishable under Sections 498(A), 323, 504, and 114 of the IPC, registered with Junagadh Mahila Police Station vide C.R. No. 11203040230048/2023. The said complaint was subsequently registered as Criminal Case No. 4555/2023 and was decided by the 8th J.M.F.C., Junagadh on 14.05.2025, whereby both accused persons, who are the opponents in the present application, were acquitted. Being aggrieved and dissatisfied with the said order, the original complainant/State intends to challenge the same by way of an appeal; however, a delay has occurred, and hence, the present application.

Facts of the present application:-

2. It is stated in the application that the opinion of the learned APP was submitted to the appellant's office on 30.05.2025. For obtaining the necessary sanction, the matter was forwarded to the office of the District Magistrate, Junagadh on 30.05.2025 vide No. 151/2025. The opinion was received on 27.11.2025 in File No. 3779/2025; however, due to an error in the case number, the matter was again forwarded for rectification vide No. 309/2025 dated 28.11.2025. The corrected opinion was received on 05.12.2025 and was thereafter allotted to the learned Assistant Public Prosecutor on 08.12.2025.
3. Thus, considerable time was consumed in obtaining the opinion, procuring certified copies, rectifying the case number in the sanction order, and preparing the appeal. Consequently, a delay of 115 days has occurred in preferring the appeal, and therefore, it is prayed that the said delay be condoned.

Reply of other side and arguments :-

4. The learned Advocate has appeared on behalf of the opponents and has filed written objections vide Exh. 11, wherein he has denied the averments made in the application and has further submitted that the delay has not been satisfactorily explained. He has, therefore, prayed for dismissal of the application for condonation of delay.
5. The learned Additional Public Prosecutor for the applicant has advanced arguments, reiterating the grounds raised in the application, and has further submitted that time was consumed in obtaining the sanction, carrying out necessary rectifications, procuring certified copies, and preparing the appeal. It is, therefore, prayed that the delay be condoned.
6. On the other hand, the learned Advocate for the opponents has argued that the delay has not been properly explained and, therefore, the application deserves to be dismissed.

REASONS :-

7. So far as condonation of delay is concerned, the judgment of Hon'ble Apex Court in the case of **B. Madhuri Goud V/s. Damodar Reddy** which is reported in **2012 CJ (SC) 1413** comes into way and wherein the Hon'ble Apex Court has laid down the ratio that;
 - (a) Ordinarily a litigant does not stand to benefit by lodging an appeal late.
 - (b) Refusing to condone delay can result in a meritorious matter, being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.
 - (c) Every day's delay must be explained does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay ? The doctrine must be applied in a rational common sense pragmatic manner.

- (d) When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have right in injustice being done because of a non-deliberate delay.
 - (e) There is no presumption that delay is occasioned deliberately, or on account of culpable negligence or on account of malafides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.
 - (f) It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.
8. Therefore, considering the above dicta in the case of ***B. Madhuri Goud*** of the Hon'ble Apex Court and to have result on merits and in the interest of substantial justice, the delay which is caused is required to be condoned. Moreover, granting of delay won't prejudice the rights of the otherside as they will get an opportunity to led their case. In the present matter, there is a delay of approximately 115 days. It is evident from the averments made in the application that the opinion of the learned APP was received on 30.05.2025 and, on the very same day, the proposal was forwarded to the office of the District Magistrate, Junagadh for obtaining sanction. The sanction order, however, came to be issued only on 27.11.2025, i.e., after an inordinate and unexplained lapse of time. Further, due to an error in the case number, the matter had to be once again forwarded for rectification, which was ultimately received on 05.12.2025.
9. The applicant has failed to provide reasons for the delay for each day, as the delay has not been explained despite

being afforded sufficient opportunity. However, the applicant's right to challenge the verdict of the Trial Court cannot be summarily denied. Therefore, since the delay for each day has not been explained, it is necessary to impose some cost.

10. In view of the aforesaid circumstances, while the delay may be considered for condonation in the interest of justice, this Court is of the opinion that the same cannot be condoned without imposing costs. Accordingly, appropriate cost is required to be imposed, which shall be recovered from the person responsible for causing such inordinate delay, so as to ensure accountability within the administrative framework of the State.
11. Therefore, considering all the said circumstances and considering said delay, some amount is required to be imposed because the applicant has knocked the doors of appeal Court after delay of 115 which are stated above and considering the same, I pass the following order which is as under:-

ORDER

1. The delay which is caused to file this appeal is hereby condoned and the applicant shall deposit **Rs.2,500/- (Rupees Two Thousand Five Hundred Only)**, to opponents and the payment of costs is sine-qua-non to get delay condoned and appeal be registered accordingly.
2. The District Magistrate, Junagadh is hereby ordered and directed to recover the aforesaid amount of costs from the person concerned, who is responsible for causing such inordinate delay, and to submit a

compliance report to this Court.

3. Copy of this order shall be communicated to the concerned authority.

Pronounced in the open Court today
on this 15th day of April, 2026.

Date : 15.04.2026
Junagadh.

(B. G. Dave)
Sessions Judge
Junagadh
[GJ00469]