

	Received on	:	07/09/2019		
	Registered on	:	07/09/2019		
	Decided on	:	25/06/2026		
GJJN220003132019	Duration		Years	Months	Days
			6	9	18

**IN THE COURT OF THE 3rd ADDITIONAL DISTRICT
JUDGE, VANTHALI**

Cr.M.A. No.136/2019

Exh.-

APPLICANT :

Shyamnarayan Charya Gurudev Krrushnacharya
Age : 59 years, Occupation : Worship work,
R/o. Khorasa Aahir, Tal. Vantthali,
District Junagadh.

VERSUS

OPPONENTS:

1. **Hadabhai @ Tapubhai Naranbhai Karetha**
Age : 40 years,
R/o. Khorasa Aahir, Tal. Vantthali,
District Junagadh.
2. **State of Gujarat**
Through : Government Pleader,
Office of District Government Pleader,
At.Vantthali/Junagadh.

APPEARANCE:	
Mr.H.S.Desai	Ld. Advocate for the Applicant
Mr.V.U.Vadar	Ld. APP for opponent no.1
Ms.M.P.Vaghela	Ld. APP for opponent no.2

Subject:	An application for condonation of delay under section 5 of the Limitation Act
----------	--

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

1. The applicant has preferred this application under Section 5 of the Limitation Act, to condone the delay in filing an appeal against the Judgment passed in Criminal Case No.169/2014, dated 02/04/2019, by the Additional Chief Judicial Magistrate, Vanthali.

The brief facts of the present application are as follows:-

2. The applicant has filed the present application for condonation of a 5-months, 5-days delay in filing an appeal against the impugned Judgment dated 02/04/2019. The present applicant was the original complaint in the Criminal Case No.169/2014 and by the impugned judgment the accused i.e. opponent no.1 has been acquitted for the offence punishable under Section 323, 504, 506(2)

of I.P.C. and Section 135 of the G.P. Act, registered with Vanthali Police Station vide C.R. No. Second 3034/2014. Being aggrieved and dissatisfied with the impugned Judgment the applicant wants to prefer an appeal. As the applicant could not file the appeal withing a period of Limitation, the applicant has filed the present application and seeking condonation of delay occurred in filing appeal against the impugned judgment.

3. It is stated that the applicant was unaware of the impugned judgment. Upon gaining knowledge of the same, he applied for a certified copy and, after obtaining legal advice, was compelled to file the present appeal, resulting in the delay. It is further submitted that, the appeal has substantial merit and is likely to succeed and if the delay is not condoned on technical grounds, the applicant would be deprived of his lawful rights, whereas condoning the delay would advance the cause of justice. It is stated that the applicant is engaged in religious service and worship and is, therefore, unable to frequently travel, he was not aware of the impugned order and is also ignorant of legal matters. Hence prayed to allow the present application.
4. On service of notice upon opponent, the opponents have appeared through Ld. App and Ld. Advocate of the respective parties. Ld. Advocate for the opponent no.1 has filed written objection vide Exh.8 and denied the facts mentioned in the application of the applicant and further

stated that

5. It is stated that the Ld. Trial Court, by judgment and order dated 02.04.2019 passed in Criminal Case No. 169 of 2014, acquitted the opponent no.1 and since no advocate was engaged by the original complainant to conduct the prosecution, the Court had duly informed the learned APP about the order in accordance with the rules. It is stated that under the law, if the learned APP considers the order to be unjust, he is required to make appropriate recommendations to the competent authority for filing an appeal, but no such recommendations have been made by Ld. APP. It is further stated that the reasons stated in the application for condonation of delay are untenable and that condoning the delay would not cause any prejudice to the original complainant's rights or interests. It is stated that the applicant has abused the process of the Court, wasted judicial time, and filed the present application only to harass opponent no.1. Hence prayed to reject the present application with cost.
6. I have heard Ld. advocate for the opponent no.2 & Ld.APP for opponent no.1. While Ld. Advocate for the applicant has not remained present nor argue the matter. According to provisions of the Limitation Act, the Court has to keep in mind that discretion given by the Statute has to be exercised to advance substantial justice. Thus, what is required by law is that the delay must be satisfactorily

explained.

7. Considering the settled principles of law, related to condonation of delay, here in the present case at hand, as per the case of the present applicant, the delay has been caused in filing an Appeal because of the reasons stated above. It is the say of the applicant that due to unaware of the judgment and lack of knowledge of judicial procedure, he could not file the appeal on time. Thus, there was a delay in preferring an appeal.
8. In the present case, the applicant has sought condonation of delay on the grounds that he is engaged in religious service and worship, is unable to travel frequently, was not aware of the judgment, and is ignorant of legal procedures. It is further stated that after acquiring knowledge of the judgment, he obtained a certified copy, sought legal advice, and thereafter filed the present appeal. However, the aforesaid reasons cannot be said to constitute sufficient cause within the meaning of law. The applicant has not disclosed the exact date on which he acquired knowledge of the impugned judgment, nor has he satisfactorily explained the entire period of delay. Mere engagement in religious activities or inability to travel frequently cannot by itself justify such prolonged inaction. Likewise, ignorance of law or legal procedure is not a valid ground for condonation of delay, as it is a settled principle that ignorance of law excuses no person. The explanation

furnished by the applicant is vague and general in nature and does not disclose any unavoidable circumstance which prevented him from approaching the Court within the prescribed period of limitation. Further applicant himself or through Ld. Advocate did not remain present in the present case. In the absence of a satisfactory and convincing explanation for each day's delay from the applicant, the applicant has failed to establish sufficient cause for condonation of delay. In the absence of sufficient cause, the Court cannot presume reasons or condone delay merely on sympathetic grounds. Accordingly, the following final order is passed below this application.

-:: ORDER ::-

1. The present application is hereby **rejected**.
2. No order as to costs.

Signed and pronounced in the open Court, today on this **25th day of June, 2026**.

Date:25/06/2025

(Salimbhai Babulal Mansuri)

Place:Vanthali

3rd Additional Sessions Judge

Vanthali.

UIC No.GJ00698