

KAMS010001842025



**BEFORE THE COMMERCIAL COURT & II ADDL.
DISTRICT & SESSIONS JUDGE AT: MYSURU.**

Dated this the 11th day of March, 2026

:: PRESENT ::

**Sri Mallanagouda, B.Com., LL.M.,
Presiding Officer,
Commercial Court &
II Addl. District Judge, Mysuru.**

Crl. Appeal. No.12/2025

APPELLANT : G.M.Kantharaju,
S/o Late Majjappa,
Aged about 48 years,
R/at #1226, 17th Main,
5th Cross, Prakashnagara,
Rajaji Nagar,
Bangalore.
(By Sri. K.S.N., Adv.,)

-Vs-

RESPONDENT : Poornima G.N,
W/o G.M.Kantharaju,
D/o B. Nagaiah,
Aged about 41 years,
R/at #559, 20B, Cross road,
C block, 3rd Stage,
Vijaya Nagara, Mysuru.
(By Sri. S.M.U., Adv.,)

PARTIES TO I.A.No.**APPLICANT** : G.M.Kantharaju**-Vs-****OPPONENT** : Poornima G.N.,**ORDERS ON APPLICATION FILED BY THE
APPELLANT UNDER SECTION 5 OF LIMITATION ACT**

This appeal is filed by the Appellant under Section 29 of Domestic Violence Act R/w Section 397 of Cr.PC challenging the order passed in Crl.Misc.No.923/2020 dated 04.02.2023 On the file of V Addl. JMFC, Mysuru. In winch as there is delay in filing the appeal Appellant has filed application under Section 5 of Limitation Act seeking to condone the delay of 22 months 15 days in filing the appeal. In application the Appellant has contended that though Appellant has obtained copy of judgment from the Trial Court on 15.02.2023 due to continuous ill-health of his mother Appellant was unable to insist his counsel to file appeal, hence there is delay in filing appeal. Further after the impugned order Appellant

has made several efforts for settlement through his relatives which resulted no fruits, therefore he decided to file appeal and hence there is necessity of condoning the delay.

2. To this application Respondent has filed objection in which she has contended under;

The application is not maintainable under law or on facts same has been liable to be rejected. Averment that the Appellant is looking after his parents is false. In fact the Appellant has filed present appeal only to harass the Respondent. Hence application of the Appellant is liable to be rejected.

3. The points that arises for my consideration are as here under :

1. Whether the Appellant has made out valid grounds for condone the delay in filing the appeal ?
2. What order ?

4. In support of his case Appellant has got examined himself as PW.1 and got marked documents at Ex.P1. On the other hand Respondent has not produced any evidence on her behalf but she got marked document at Ex.R1 and R.2 on her behalf.

5. Heard arguments.

6. My findings on the above point is as hereunder ;

Point No.1 : In the Affirmative,

**Point No.2 : As per final order
for the following;**

:: REASONS ::

7. **POINT No.1** : It is contended by Appellant that his mother is aged about 83 years, suffering from old aged health problem, hence he is looking after his mother, due to which he was unable to meet his advocate to instruct him, hence there is delay of 22 months 15 days. Though in affidavit filed in support of application Appellant has reiterated the averment made in the application, in cross examination it is admitted about attending the court proceedings in Crl.Misc.25/2022 and

75/2023 even after judgment dated 04.02.2023 and payment of part of the amount from which it appears that even after the judgment under challenge in present appeal, present Appellant himself attended court proceedings in other matters between the same parties which shows that the reasons stated by the Appellant is not completely true. However from Ex.D1 it appears that there is some material to show that Appellant's mother is old aged and she is suffering from old age deceases. Therefore as appeal under challenge is for making alternative accommodation for the Respondent and her son and payment of maintenance if Application filed by the Appellant is allowed by imposing condition to deposit entire balance maintenance amount as per the judgment in Crl. Misc. 923/2020 with direction to keep the said amount in FD and disburse the same to the parties as per final decision in the present appeal and if we direct the Appellant to get the matter decided at the earliest we can do justice to both the parties. Therefore it is decided

to allow the application filed by the Appellant. ***Hence point No.1 is answered as above.***

8. **POINT No.2:-** In the result, I proceed to pass the following;

ORDER

The application filed by the Appellant under Section 5 of Limitation Act is allowed subject to condition that Appellant shall deposit entire arrears of the maintenance as per order in Crl.Misc.923/2020 before the Trial Court within one month from today, in the event of depositing the amount by the Appellant the Trial Court is directed to keep the said amount in FD till disposal of the present appeal and disburse the same as per final decision in the present appeal.

Send the copy of this order to Trial Court.

[Dictated to the Stenographer, transcribed & computerized by her, transcript revised, corrected and then pronounced by me in the open Court on this the **11th day of March, 2026**].

[MALLANAGOUDA]

Presiding Officer,
Commercial Court & II Addl.
District & Sessions Judge, Mysuru.