

KAMS010085932024



**IN THE COURT OF THE III ADDL. DISTRICT JUDGE,  
MYSURU**

**:PRESENT:**

Sri. **Gururaj Somakkalavar**, M.A.,LL.B.,  
III ADDL.DISTRICT JUDGE, MYSURU.

**CRL.A/401/2024**

**Dated this the 24<sup>th</sup> day of December 2025**

**Appellant:** Nanjappa

**V/s**

**Respondents:** Nanjunda (Dead) & others

**I.A.No.I**

**Applicant:** Nanjappa ..... appellant

**V/s**

**Opponents:** Nanjunda (Dead) & others ....

Respondents

**ORDERS ON APPLICATION FILED U/SEC.5 OF  
LIMITATION ACT**

The applicant/appellant herein has filed an application U/s.5 of Limitation Act for condone the delay

of 266 days in filing the appeal, in the interest of justice and equity.

2. It is contended in the accompanying affidavit to I.A.No.I that, the he does not know about the passing of the judgment and acquittal of accused either from prosecution or police. On 26.09.2024 when he enquired with the prosecution he came to know about the judgment. Further contended that, he thought the prosecution on behalf of the state may challenge the judgment. But, same is not challenged in the appeal. When he came to know that, he can challenge the judgment immediately he obtained records to prepare appeal. But, since he got ill health he could not contact his counsel and prepare for filing appeal. Hence, there is a delay. Hence, prayed to allow the application.

3. The respondents has filed objection to I.A.No.1 and contest the application.

4. Heard both sides.

5. The points that arise for consideration are:

1. Whether the appellant has made out grounds to allow I.A.No.I, to condone the delay ?
2. What order?

6. My findings to the above points are:

Point No.1: In the **Affirmative**.

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

### **REASONS**

#### **Point No.1**

7. The appellant has challenged the judgment dated 29.02.2024 in CC.No.246/2013 on the file of II JMFC, Mysuru.

8. The appellant is the victim/complainant before the trial court. The court has acquitted the present respondents/accused for the offence punishable under Sec.143, 147, 148, 114, 341, 323, 324 and 506 R/w Sec.149 of IPC. The present appeal is the victim appeal. Where he filed this appeal aggrieved by the judgment of acquittal.

9. Along with the appeal the appellant has maintained application under Sec.5 of Limitation act, for condonation of delay in preferring the appeal. The some and substance of the ground urged for condonation of delay is that, the appellant does not know about the acquittal of the accused and he thought the state may prefer appeal against acquittal judgment. But, mean time he suffered ill health. Because of the said reason he could

not prefer appeal in time. The said application was contested by the respondents.

10. The appellant has challenged the impugned order on many grounds. It is urged by the appellant that, he has suffered ill health, because of that, there is delay in preferring the appeal. On careful perusal of the records, the appellant has challenged the correctness and legality of the impugned judgment, same has to be scrutinized in the present appeal. However, there is delay in preferring the appeal. But, the appeal has to be considered on merits and rights of the parties is to be adjudicated. The reason assigned by the appellant is to be considered. Hence, considering these aspects the present application deserves to be allowed.

11. On and often, the Hon'ble Supreme Court has held that the approach of the courts should be liberal in condoning the delay in appropriate cases. Time and again, it is also held that the reason for delay of each and every day should not be looked into while condoning the delay. The appeal is a statutory right of the party to the proceeding. If, the delay is condoned and the appeal is decided on merits, no injustice would be caused to the respondent. On the other hand, if the application is rejected certainly great injustice would be caused to the appellant. Hence, as the appellant has made out ground

to allow the application and to meet the ends of justice. This court is of the considered opinion that the application deserves to be allowed, in the interest of justice and equity. Accordingly, I answer Point No.1 in the **Affirmative**.

**POINT NO.2:**

12. In the result, I proceed to pass the following:

**ORDER**

The application filed by the appellant under Section 5 of Limitation Act for condonation of delay is hereby **allowed**.

The delay of 266 days in filing the appeal is hereby **condoned**.

[Dictated to the stenographer on computer, corrected and then pronounced by me in the Open Court, this the **24<sup>th</sup> day of December 2025**]

**[Gururaj Somakkalavar]**  
III Addl District & Sessions Judge,  
Mysuru.