

In the Court of the Principal Sessions Judge, Madurai
Present: Thiru.M. SAISARAVANAN, M.L.,,
Principal Sessions Judge, Madurai
Thursday, this the 18th day of June, 2026.

Crl.M.P.No.4938/2025
in
Unnumbered Crl. Appeal No.-- /2025
(CNR No.TNMD010075682025)

P. Senthil Kumar

... Petitioner/ Appellant/ Complainant

/vs/

V. Anguraj

... Respondent/Respondent/Accused.

This petition coming on 09.06.2026 for hearing before me in the presence of Thiru.A.Abul Hasan, Advocate for the petitioner and of Thiru.Aru. Maruthachalam, Advocate for the respondent, upon hearing both sides and having stood over for consideration till this day, this court delivered the following:-

ORDER

The petitioner has filed this petition u/s 5 of Limitation Act, to condone the delay of 642 days in preferring Criminal Appeal against the Judgment in STC No.303/2018 dated 06.12.2023 on the file of the learned Judicial Magistrate No.II, FTC at Magistrate Level, Madurai.

2. The averments in the affidavit filed along with petition are briefly as follows:-

The petitioner filed a complaint in STC No.303/2018 on the file of the learned Judicial Magistrate No.II, FTC at Magistrate Level, Madurai against the respondent for the offence U/s. 138 of N.I. Act. After full trial, the trial court acquitted the respondent on 06.12.2023. The order of acquittal came to the knowledge of the petitioner through his earlier counsel only on 16.06.2025. Immediately, the petitioner filed copy application on 30.06.2025 and copy was

made ready on 01.07.2025. The petitioner is having good chance to succeed the appeal and moreover certain evidential documents stands in favour of the petitioner not filed as exhibits before the trial court. There is delay of 642 days in filing appeal. The delay is inadvertent and it is neither willful nor wanton. If this petition is not allowed, the petitioner will be put to irreparable loss and hardship and hence this petition.

3. The averments in the counter affidavit filed by the respondent are briefly as follows:

As per the official E-court diary and the trial court records of STC.No.303/2018, the petitioner was personally present in the court hall on the date of judgment. Having been present at the time of the verdict, the petitioner cannot plead lack of knowledge or miss-communication for a period of over 18 months. The petitioner waited until 30.06.2025 to apply for a certified copy. The petitioner failed to explain the reason for the delay. This inordinate delay is not accidental or due to mental agony, but is a result of gross negligence and an afterthought to re-open a concluded matter. Hence, the petition may be dismissed.

4. The point for determination:

1. whether the petitioner had shown just and sufficient cause to condone the delay of 642 days in filing the appeal?

2. Whether this petition has to be allowed ?

5. Both side have not adduced either oral evidence or documentary evidence. Heard both sides.

6. Point Nos.1 and 2:

The petition filed to condone the delay of 642 days in filing Criminal Appeal against the Judgment passed in STC No.303/2018 dated 06.12.2023 on the file of the learned Judicial Magistrate No.II, FTC at Magistrate Level, Madurai. The petitioner is a proposed appellant and he was complainant in STC No.303/2018 before the trial court. The complaint filed U/s. 138 and 142 of N.I.

Act was dismissed by the trial court on 06.12.2023. The contention of the petitioner as per averments in the petition is that the order of acquittal came to his knowledge through his earlier counsel only on 16.06.2025, that too when he enquired about the case status from his counsel and he made copy application on 30.06.2025 and copies were made ready on 01.07.2025 and soon after receiving the order, the petitioner preferred the appeal and due to some miss-communication with regard to the communication of order to him, he could not file the appeal in time had caused the delay and which necessitated to him to file the present petition. Resisting the averment, the respondent filed counter stating that the petitioner was very well present on the date of verdict of the case and despite of knowing the same, he filed copy application with delay of 18 months and failed to explain the reasons for delay and the alleged miss-communication pleaded by him are not correct and prayed for dismissal of petition. Therefore, the point for consideration is that whether the petitioner had shown just and sufficient cause to condone the delay of 642 days.

7. The petitioner was complainant before the trial court in a petition filed U/s. 138 of N.I. Act. The trial court, after full trial dismissed the complaint by its Judgment dated 06.12.2023. The petitioner ought to have preferred the appeal within a period of 30 days, but, however, there is delay of 642 days in filing the appeal. On perusal of the affidavit filed in support of petition, all the averments made in the affidavit are false averments and not even a single reason is specifically pleaded or stated for the delay of 642 days. The 1st reason stated by the petitioner is that the acquittal itself came to his knowledge through his counsel only on 16.06.2025 and thereafter, he filed copy application on 30.06.2026. The said reason stated by the petitioner itself is found to be utter falsehood, because, on verification of daily case status of STC.No.303/2018, it is very clear that on 06.12.2023, this petitioner was present before the trial court and the presence of both parties was recorded by the trial court and thereafter only Judgment was pronounced. Therefore, this petitioner had clear knowledge about the Judgment of the case as on date of its pronouncement of itself. But, the petitioner has remained

silent almost for 18 months from the date of Judgment and he has chosen to file copy application itself only on 30.06.2025, which shows his gross negligence and lethargic attitude in preferring the appeal. The reason for such huge delay has not been explained by the petitioner anywhere in the petition. Admittedly, certified copies were made ready on 01.07.2025 itself and even after receipt of the certified copies, he had not filed appeal immediately and again remained silent almost for 4 months and he presented the appeal only on 07.10.2025. Another reason stated by the petitioner is that there was miss-communication between his counsel and himself, which also found to be a false statement as he himself had knowledge about the final verdict of the case before the trial court and any communication from the counsel is absolutely not necessary. Further, he stated that he was mentally and physically aggrieved with acquittal order which cannot be valid reason to condone the delay in filing the appeal. Except the above said reasons, he has not stated any valid reasons for the delay. Even assuming that there was some miss-communication that cannot be construed as valid reason, because the party has also equal responsibility to pursue the case, particularly when he lost the case before the trial court. The petitioner has not assigned any valid reason as to why he has not even filed the copy application despite of knowing the Judgment of the case on 06.12.2023 itself, which shows the gross negligence, inaction and lethargic attitude of the petitioner in pursuing the case and it also makes clear that he never intended to prefer the appeal in time.

8. It is not the case of the petitioner that he was suffering from any ailment or disability from giving instruction to his counsel to file the appeal. Contacting the counsel and giving instruction to file the appeal in the modern era of communication development is just phone call away. The petitioner despite of knowing that the Judgment was pronounced on 06.12.2023 against him, he has failed to give any instruction to his counsel even for filing of copy application. A person with such lethargic and inaction attitude cannot be construed as a bonafide person and condoning the delay cannot be exercised in favour of such person who willfully remained inaction and also made a false statement as if the Judgment itself

came to his knowledge only after 2 years of its pronouncement. When no negligence or inaction or want of bonafide is imputable to any party claiming contention then only, the sufficient cause as explained in Section 5 of Limitation Act, should receive liberal construction so as to advance a substantial justice. The willful negligence on the part of party in filing the appeal cannot be condoned. Unless or otherwise the petitioner shown sufficient cause and proved that the things beyond his control prevented him from filing the appeal within the stipulated time, the delay cannot be condoned on the basis of false averments found in the affidavit. The Hon'ble Supreme Court of India in Thirunagalingam Vs. Lingeshwaran and others/Manu/SC/0678/2025 very clearly held that the delay should not be condoned merely as act of generosity and the delay should not be condoned when the petitioner failed to demonstrate the reasonable grounds of delay in pursuing the matter. In the instant case also, the petitioner has failed to explain the reason for inordinate delay of 642 days in filing the appeal. The reason stated by the petitioner for delay is absolutely not bonafide and acceptable one. Considering all these facts and circumstances of the case, I don't find any sufficient cause shown by the petitioner to condone the delay of 642 days in filing the appeal and I am not inclined to allow this petition and the Point Nos.1 and 2 are answered accordingly.

In the result, the petition is dismissed.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in open court this the 18th day of June, 2026.

Principal Sessions Judge,
Madurai.

List of witnesses examined and documents on both sides:- Nil

Principal Sessions Judge,
Madurai

