

IN THE COURT OF THE PRINCIPAL SESSIONS JUDGE,
TIRUVANNAMALAI.

PRESENT: Thiru. ***P. Mathusuthanan, B.A.,B.L.,***
Principal Sessions Judge,
Tiruvannamalai.

Wednesday, the 04th day of February, 2026

M.P.No.1/2025 in Unfiled C.A

(CNR.No.TNTM01-002437-2025)

K.Vijayakumar

...

Petitioner / Appellant

Versus

M/s. K.Jayakumar, a Partnership firm
By its Power Agent Muthu
Arni Town.

...

Respondent/Complainant

This Criminal Miscellaneous Petition has come up before me for final hearing today (04.02.2026) and upon hearing the arguments of Mr.A.Azaruddin, Learned Advocate appearing for the Petitioner and of Mr.B.Sundarapandiyam, Learned Advocate appearing for the Respondent and upon perusing the available records and having stood over for consideration till this day, this court passed the following...

ORDER

The petitioner filed this petition under section 5 of Limitation Act to condone the delay of 283 days in preferring the Criminal Appeal against the Judgment of the Learned Judicial Magistrate, Arni passed in STC.No.121/2021 dated 05.08.2024.

2) **Brief averments of the petition are as follows:**

The respondent herein has filed the above main case as against the appellant/petitioner in STC.No.121/2021 before the Judicial Magistrate, Arni and that the Judicial Magistrate, Arni has convicted him to undergo simple imprisonment for six months and to pay amount of Rs.2,00,000/- as compensation to the complainant in default to undergo two weeks simple imprisonment by the order dated 05.08.2024.

During the last week of July 2024, he fell sick and affected with acute jaundice and he has been taken to an interior village in Palamaneir Taluk in Andhra Pradesh and was given native treatment and hence he was not able to come out of the village and to meet his counsel at Arni and to know the result of the case. This Honourable court was pleased to pass the order on 05.08.2024 and the same was not known to him. After recovery from jaundice, he had immediately went to Arni and met the counsel and the counsel had informed that since he was absent, the trial court has passed Judgment on 05.08.2024 directing him to undergo simple imprisonment for six months and also to pay the amount of Rs.2,00,000/- as compensation to the respondent/complainant.

Since he has not taken regular and continuous treatment for the jaundice disease, he was again attacked with jaundice and taken to the native doctor for further treatment and hence he was not able to contact the counsel and request him to file the appeal against the order of the Judicial Magistrate, Arni. He

returned to Arni after getting cured from the disease and when he contacted his counsel and arranged for preparing appeal and hence there is a delay of 283 days in filing the appeal in the above main case. The said delay is neither willful nor wanton one and the same is only due to the reasons stated above and beyond his control.

He has got good chances of success in the appeal and the respondent will not be prejudiced in any manner if the delay is condoned and the appeal is admitted to file and on the other hand, he will be put to great loss and serious hardship. Hence this petition.

3) Counter not filed on the side of the respondent.

4) **Point for consideration in this petition is that**

Whether the petition is to be allowed as prayed for?

5) **Point: Heard and perused the records.**

6) It is well settled Law that the petitioner shall be given a fair opportunity to contest his case on merits and the right of the petitioner to prefer an appeal shall not be rejected at threshold on the ground of mere delay only. Having considered the reasons mentioned in the petition as well as the rival submission placed by the Learned counsels for both sides and the facts and circumstances of the case and in the interest of justice, this court is inclined to allow this petition. Thus, the point is answered accordingly.

In fine, this petition is allowed. No costs.

This Order is dictated by me to the Steno-Typist Grade-I of this Court, typed by her directly in Computer, corrected and pronounced by me in open court, this the 04th day of February, 2026.

**Principal Sessions Judge,
Tiruvannamalai.**

ORDER

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in Unfiled C.A

Dated 04.02.2026