

**IN THE COURT OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE
AT TIRUVALLUR**

Present: Dr. J. JULIET PUSHPA, Ph.D. (Law)
Principal District and Sessions Judge, Tiruvallur
Thursday, the 30th day of April,2026

Crl.M.P.No.309/2026 in Unnumbered
Crl.Appeal Filing No.6731/2025

1. P.S. Chezhiyan,
2. C. Rajesh

.... Petitioners/ Appellants/accused

/Vs/

The state represented b y
Inspector of Police,
T-12 Poonamallee Police station
Crime No.154/2014

....Respondent/Respondent/complainant

This petition coming on 18.04.2026 for hearing before me in the presence of M/s E.T. Nandhakumaran, A. Arumugam, K. Magesh, K.K. Sugumar, V.P. Madhankumar Raja, S. Ramachadniran, learned counsel for the petitioner and Thiru. S. Murthy, Public Prosecutor appearing for the respondent/complainant and upon hearing the arguments of both side upon perusing the material case records and having stood over for consideration till this date, this Court delivered the following:-

ORDER

This Criminal Miscellaneous Petition is filed by the petitioner/Accused/ Appellant under section 5 of Limitation Act praying to condone the delay of 379 days in filing Criminal appeal as against Judgment of Judicial Magistrate No.II,

Poonamallee in CC No.123/2014 dated 09.10.2024.

2. The averments in the petition in brief :

The petitioners are the accused in CC No.123/2014 on the file of Judicial Magistrate No.II, Poonamallee . The respondent filed charge sheet as against the petitioners accused in CC.No.123/2014 in respect of Crime No.154/2014 of Poonamallee Police station for the offence u/s 294(b), 427, 324, 325, 506(ii) IPC. The trial court passed judgment on 09.10.2024 thereby convicting the 1st and 2nd 1st petitioner for the offence u/s 427, 324 (3 counts) IPC and the 2nd petitioner u/s 427, 325 IPC, and released on probation on execution of bond for Rs.10,000/- each. Petitioners were released on probation of good conduct for one year u/s 4 of Probation of Offenders Act 1958. After the Judgment of the trial Court, the petitioners are deprived of their personal liberty and right to life. The petitioner was taking medical treatment for vertigo heart problem and chronic shoulder pain at Sri Ramachandra Medical centre at Porur, hence, they could not contact their counsel for filing appeal. As such, there is a delay of 379 day in filing the appeal. The delay is which is neither willful nor wanton. If the delay is not condoned, he will be put to irreparable loss. Hence, prayed to condone delay of 379 days in filing the Appeal.

3. The learned Public Prosecutor appearing for the respondent filed counter objecting to allow the petition on ground that the reason stated for delay is not substantiated, hence, prayed to dismiss the petition.

4. No oral or documentary evidence adduced by both side.

5. Now, the point for consideration is

1. Whether the petitioner has made out grounds to condone the delay in filing the appeal?

2. Whether this petition is to be allowed ?

6. POINTS:

Heard both side. Perused records.

The petitioners herein filed the present petition u/s 5 of the Limitation Act to condone the delay of 379 days in filing Criminal Appeal as against the judgment of the learned Judicial Magistrate No.II, Poonamallee dated 09.10.2024.

7. Petitioners are the Accused before the Trial Court. The trial Court passed the judgment on 09.10.2024, convicting the 1st petitioner for the offences u/s 427, 324 (3 counts) IPC and the 2nd petitioner u/s 427, 325 IPC. The trial court released both the accused on probation of good conduct for one year u/s 4 of Probation of Offenders Act 1958 on execution of bond for a sum of Rs.10,000/- with two sureties. Having aggrieved by the said conviction and sentence of the trial court, the petitioner/accused preferred the Criminal Appeal with delay of 379 days and prayed to condone the delay.

8. The petitioners would contend that only due to heart ailment and continued medical treatment, there was a delay of 379 days in filing the appeal. The further contention of the petitioners is that if the delay is not condoned, serious prejudice and hardships will be caused to the petitioners as they are having good case on merits to succeed in the appeal and therefore prayed for allowing the application.

9. As against the Judgment of the Trial Court, the petitioners have the right of appeal. The reason stated by the petitioners is that due to continuous medical treatment there was delay happened appears to be probable.

10. Though the respondent objected this petition, in the matter of condoning the delay, it shall not be a matter of routine and also each and every day of delay is not explained by the petitioner as per the dictum of the Hon'ble Apex Court in **2013 (14) SCC 81** (*Basawaraj and another Vs. Special Land Acquisition Officer*), this court considers that no prejudice would be caused to the respondent by allowing this petition as the respondent will have ample opportunity to prove his case in the appeal as against the petitioner in the appeal.

11. In the matters of condonation of delay, the Hon'ble Apex Court in catena of judgments reiterated that the expression "sufficient cause" must receive a liberal construction, so as to advance substantial justice and generally delays in preferring appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bonafides is imputable to the party seeking condonation of the delay.

12. Though the delay is 379 days and though it is "cause of delay", but not the "length of the delay", in view of the decision of Hon'ble Apex Court in the Judgment reported in **2023 INSC 885** (*Sheo Raj Singh (died) through LRs and others Vs. Union of India & another*) held that

"It is upon the Courts to consider the sufficiency of cause shown for the delay, and the length of delay is not always decisive while exercising discretion in such matters if the delay is properly explained. Further, the merits of a claim were also to be considered when deciding such

applications for condonation of delay... Further, a distinction should be drawn between inordinate unexplained delay and explained delay, where in the present case, the first respondent had sufficiently explained the delay on account of negligence on the part of the Government functionaries and the Government counsel on record before the reference court ”

13. In this case, the reason stated by the petitioner that due to poor health and continuous medical treatment and hospitalization, delay happened appears to be probable. Though the respondent contends that the delay is not substantiated through documentary evidence, no prejudice would be caused to the respondent as he will have ample opportunity to disprove the case of the petitioners in the appeal.

14. Therefore, considering all the above said facts and circumstances, in order to give an opportunity to the petitioners to prove their case, considering the period of delay, and in the interest of justice, this Court is inclined to allow this petition. However, considering the period of delay, this Court is inclined to allow this petition on costs.

In the result, this petition is allowed on payment of cost, Rs.2500/- to be paid to District Mediation Centre, Tiruvallur on or before 31.05.2026. Call on 01.06.2026.

Dictated to Steno-typist , transcribed and typed by him , corrected and pronounced by me in Open Court, this , the 30th day of April , 2026

**PRINCIPAL SESSIONS JUDGE,
TIRUVALLUR**

Petitioner and respondent side witnesses and Exhibits : Nil

**PRINCIPAL SESSIONS JUDGE,
TIRUVALLUR**