

**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

Wednesday, the 29th day of April,2026

Crl.M.P.No.542/2026 in Unnumbered
Crl.Appeal Filing No.569/2026

1. R. Dineshkumar, S/o Ravichandran
2. D. Chitra, W/o R. Dineshkumar,

.... Petitioner/ Appellant/accused

/Vs/

A. Elakkiya

....Respondent/Respondent/complainant

This petition coming on 17.04.2026 for final hearing before me in the presence of M/s C. Nandhakumar, V. Nirmala, learned counsel for the petitioner and having the respondent called absent, set exparte, hearing the petitioner, 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 90 days in filing Criminal appeal as against Judgment of Judicial Magistrate, Fast Track Court at Magisterial Level, Poonamallee in STC No.449/2021 dated 30.09.2025.

2. The averments in the petition in brief :

The petitioner is the accused in STC No.449/2021 on the file of Judicial Magistrate, Fast Track Court at Magisterial Level, Poonamallee. The petitioner filed complaint u/s 200 Cr.P.C. for the offence u/s 138 of Negotiable Instruments Act as against the petitioner. The Trial Court passed judgment on 30.09.2025 convicting the petitioner/ accused thereby sentenced him to undergo one year simple imprisonment and compensation of Rs.26,00,000/- u/s 357(3) of Cr.P.C. towards the cheque amount of Rs.13,85,000/- within one month days from the date of the judgment , in default to undergone further one week simple imprisonment. The sentence of imprisonment was also suspended as per orders in CMP No.4502/2025 dt. 08.10.2025 . the petitioners tried their level best to settle the matter and negotiated for Rs.8 lakhs towards settlement, hence, they could not prefer the appeal, but without any prior intimation, the respondent filed petition before the trial court to execute the warrant to arrest the petitioner, hence, there is a delay of 90 days. The above said circumstances caused delay of 90 days of delay, 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 18 days in filing the Appeal.

3. The respondent not appeared and remained set exparte.

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 petitioner herein filed the present petition u/s 5 of the Limitation Act to condone the delay of 90 days in filing Criminal Appeal as against the judgment of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Poonamallee in STC No.449/2021 dated 30.09.2025.

7. Petitioner is the Accused before the Trial Court. The trial Court passed the judgment on 30.09.2025 and convicted the accused and sentenced him to undergo one year simple imprisonment and compensation of Rs.26,00,000/- u/s 357(3) of Cr.P.C. towards the cheque amount of Rs.13,85,000/- within one month days from the date of the judgment , in default to undergone further one week simple imprisonment. Having aggrieved by the said conviction and sentence of the trial court, the petitioner/accused preferred the Criminal Appeal with delay of 90 days and prayed to condone the delay.

8. The petitioner would contend that since the petitioner has negotiated with the respondent for settlement of the issue and tried to pay Rs.8,00,000/- towards one time settlement and also when the process was going , the respondent filed petition for issuance of warrant, and only due to the above process, it caused the delay of 90 days in filing the appeal. The further contention of the petitioner is that if the delay is not condoned, serious prejudice and hardships will be caused to the petitioner as he is 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 petitioner has the right of appeal. The reason stated by the petitioner is that due to poor financial condition, there was delay happened appears to be probable as the delay is 90 days.

10. Though the respondent remained *exparte*, 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 90 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 financial constraints, the delay happened appears to be probable and not controverted by the respondent as he remained exparte. No prejudice would be caused to the respondent as he will have ample opportunity to disprove the case of the petitioner in the appeal.

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

In the result, this petition is allowed .

Dictated to Steno-typist , transcribed and typed by him , corrected and pronounced by me in Open Court, this the 29th day of April , 2026

**PRINCIPAL SESSIONS JUDGE,
TIRUVALLUR**

Petitioner and respondent side witnesses and
Exhibits : Nil

**PRINCIPAL SESSIONS JUDGE,
TIRUVALLUR**