

In the Court of the Principal District and Sessions Judge,

Virudhunagar District at Srivilliputtur

Present:-Thiru.A.Kanthakumar, M.L.,

Principal District and Sessions Judge,

Saturday, this the 6th day of June' 2026

Cr.M.P.No.539/2026

CNR No.TNVRO1-000950-2026

Maheshwaran, age-27/2026(A2),

S/o.Kathiresan,

Door No.2/1/407-B, Muneesh Nagar,

4th street, Sivakasi,

Virudhunagar District

..Petitioner/Appellant/A2

/Vs/

1)State through Inspector of Police,

Sivakasi Town Police Station,

Crime No.86/2017

2) The Public Prosecutor,

Srivilliputtur.

... Respondents/Complainant

This petition came before me for final hearing on 02.06.2026 in the presence of Tr.M.Kanagaraj, Advocate for the petitioner/Appellant/A2 and Tr.S.Thirumalaiappan, Public Prosecutor for the Respondents and upon hearing arguments of both side and perusing the records and having stood over for consideration till this day, this Court delivered the following,

ORDER

The petitioner has filed this petition under section 5 of Limitation Act to condone the delay of 161 days in filing the appeal against the

Judgment Dated:04.08.2025 in C.C.No.64/2018 on the file of the Judicial Magistrate No.I,Sivakasi.

Petition averments in brief:-

2) The petitioner is the 2nd accused in C.C.No.64/2018 on the file of the Judicial Magistrate Court No.I, Sivakasi. A judgment was passed against him on 04.08.2025. Due to his employment in a distant place and continuous engagement in daily wage work, he could not obtain the certified copy of the judgment and prefer the appeal within the prescribed period, resulting in a delay of 161 days. The delay was neither wilful nor deliberate, but due to bona fide and unavoidable circumstances. The petitioner has a fair and arguable case on merits. If the delay is not condoned, he will suffer serious prejudice and irreparable loss. Hence, the petitioner prays that this Hon'ble Court may be pleased to condone the delay of 161 days in filing the appeal and permit him to prefer the appeal.

Counter averments in brief:-

3) The respondent denies the allegations made by the petitioner and submits that the petitioner was convicted in C.C.No.64/2018 for the offence under Section 392 IPC and sentenced by the learned Trial Court by judgment dated 04.08.2025. Aggrieved by the said conviction and sentence, the petitioner has preferred the present appeal with a delay of

161 days and filed this petition seeking condonation of the said delay. The respondent submits that the reasons assigned by the petitioner for the delay are neither satisfactory nor supported by any acceptable material. Though the petitioner has stated that he was employed in a distant place and continuously engaged in daily wage work, no documentary evidence has been produced to substantiate the said claim. Further, the petitioner has not even disclosed the particulars of the alleged place of employment. The explanation offered for the delay is vague, bald and unsubstantiated. The petitioner has failed to explain the entire period of delay in a convincing manner. Therefore, the petitioner has not shown sufficient cause for condonation of the delay of 161 days. Hence, the petition is devoid of merits and liable to be dismissed.

4) No oral and documentary evidences let in on either side.

5) Now, the point for consideration is that whether the petition deserves to be allowed or not?

6) Both side argument heard and records perused.

Answer to the point:-

7) This Court considered the rival submissions made on both sides. The petitioner has filed this petition to condone the delay of 161 days in filing the appeal. The reason stated by the petitioner is that he was employed in a distant place and continuously engaged in daily wage work

and therefore could not meet his counsel in time and file the appeal within the prescribed period. Consequently, there was a delay of 161 days in filing the appeal. The respondent has opposed the petition on the ground that no documentary proof has been produced in support of the reasons assigned by the petitioner.

8) However, as a first appeal is a statutory right of the aggrieved party to have his case considered on both facts and law, an opportunity ought to be afforded to him to prosecute the appeal. It is settled law that the length of delay is not the criterion, but the intention of the party has to be considered. In the facts and circumstances of the case, the delay does not appear to be wilful, deliberate or malafide. Considering the explanation offered by the petitioner and in order to provide an opportunity to agitate the matter on merits, this Court is of the view that the petition deserves to be allowed and the delay condoned. Accordingly, this point is answered in favour of the petitioner.

9) In the result, this petition is allowed. The delay of 161 days in filing the appeal is condoned. No costs.

Dictated to the Steno-Typist, directly typed by her, then corrected and pronounced by me in open Court on this the 06th day of June 2026

**Principal District and Sessions Judge,
Virudhunagar District at Srivilliputtur.**

Principal District and sessions Court,
Srivilliputtur
Cr.M.P.No.539/2026
06-06-2026
