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**IN THE COURT OF SESSIONS JUDGE, CHITRAKOOT**

**Present- Shesh Mani.....HJS**

UPCH010001992026



**Criminal Misc. Case No. 16 / 2026**

1. Arvind Kumar Tiwari aged 64 years son of Shri Chandradev Tiwari,  
Resident of Rajapur, District Chitrakoot.

.....Revisionist/Applicant.

Vs.

1. State of Uttar Pradesh through DGC (Criminal), Chitrakoot.

.....Opposite Party.

**Under Section- 5 of the Limitation Act.**

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**Order on application 4 Kha, under Section 5 Limitation Act**

**13.03.2026:**

1. Present Criminal Revision has been filed under section 397 Cr.P.C. (Section 438 BNSS) against the order dated 27.01.2025 passed by learned Chief Judicial Magistrate, Chitrakoot in Criminal Case No. 392/2025 State Vs. Bhagwat Pandey & Others. Under Sections 147, 148, 149, 336, 352, 286, 504, 506 IPC P.S. Rajapur Crime No. 209/2022, by which cognizance in the offence was taken against the accused persons including the revisionist. Since the revision is time barred, therefore, application 4 Kha under 5 Limitation Act has been filed for condonation of delay in filing the revision.

2. In the application, it is stated that the revisionist had no information regarding the case crime no. 209/2022 P.S. Rajapur and the investigating officer had recorded false statement in his name as statement of accused. The investigating officer had neither recorded his statement nor had obtained his signatures. On 22.01.2026, Bhagwat Pandey informed the

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applicant that he has been made accused in the case and Bhagwat alongwith his brothers had obtained bail in the matter and the case is fixed in the court of Chief Judicial Magistrate on 16.02.2026 for appearance. Thereafter, the certified copy of cognizance order obtained on 11.12.2025 was provided to him and asked him to obtain bail from the court. Afterwards, he approached his learned counsel with the certified copy on 23.01.2026 who suggested him to file revision and subsequently the present revision has been preferred. He was neither having any information regarding pendency of the said case nor had any information regarding the cognizance order prior to 22.01.2026. It was holiday on 24.01.2026, 25.01.2026 and 26.01.2026. The delay from 27.01.2025 to 26.01.2026 has not been caused deliberately and the delay was caused due to his unawareness about the case and circumstance for delay was beyond his control and thus, the delay caused is liable to be condoned.

**3.** I have heard learned counsels for the parties and perused the record.

**4.** Learned counsel for the revisionist/applicant has submitted that the delay has basically been caused due to unawareness of the revisionist about the pendency of the case. The delay caused is not deliberate and is liable to be condoned.

**5.** Per contra, learned counsel for the opposite party submits that the revisionist had all the information about pendency of the case as his statement has been recorded by the investigating officer in the case registered at crime no. 209/2022. As far the signature of applicant is concerned, the case diary is prepared by the investigating officer and there is no provision of obtaining signature of the witness or accused while recording their statement in the case diary by the investigating officer. There is a delay of more than a year in filing the revision and the reasons for delay provided by the revisionist is not reliable, therefore, the applicant does not deserve any leniency and the delay caused is not liable to be condoned.

**6.** From perusal of record, it transpires that the cognizance order in Criminal Case No. 392/2025 State Vs. Bhagwat Pandey was passed on 27.01.2025 and as per the Munsarim report, the revision is filed on 27.01.2026 and is beyond the limitation.

**7.** 'Sufficient cause' is a condition precedent for condoning delay under Section 5 of the Limitation Act, 1963. The Hon'ble Supreme Court in the

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**State of West Bengal versus Administrator Howrah Municipality, AIR 1972, S.C. 749** has observed that it is not possible to lay down precisely as to what facts or matter would constitute 'sufficient cause' under Section 5 of the Limitation Act.

8. The Hon'ble Apex Court in the case of **Collector, Land Acquisition versus Mst. Katiji, A.I.R. 1987, S.C. 1353** has held that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of non-deliberate delay.

9. The revisionist had denied having any information about the pendency of the case prior to 22.01.2026 and he only came to know about the case against him when Bhagwat Pandey informed him on 22.01.2026 about the pendency of the case against him. The applicant/revisionist had also denied his statement recorded by the investigating officer during investigation and has stated that he had not given any such statement to the investigating officer and the investigating officer had neither recorded his statement nor had obtained his signature upon his statements. It is stated that he only came to know about the impugned order dated 27.01.2025 on 22.01.2026 and then he approached his counsel and obtained legal advise and since the court was closed on 24.01.2026, 25.01.2026 and 26.01.2026 he filed the present revision on 27.01.2026. It is further stated that due to lack of knowledge about the pendency of the case, the revisionist could not prefer revision within time.

10. Perusal of record shows that the cognizance in the case was taken against the accused persons including the revisionist on 27.01.2025 and thereafter further dates were fixed for appearance of the accused persons and orders for issuing summons against the accused had been passed. Neither there is anything on record to show whether any summon was issued against the accused/revisionist nor any served or unserved summon for accused/revisionist is available on record to prove that accused was having any knowledge about the pendency of the case.

11. It is though disputed whether the investigating officer had recorded the statement of accused/revisionist during investigation or not, still it is settled principle of law that if the refusal to condone delay in preferring the

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revision results into grave miscarriage of justice, the revisional court should condone the delay and permit the filing of the revision. Court should not adopt a pedantic or hyper-technical approach while considering the question of condonation of delay. The court should rather adopt a rational and pragmatic approach and substantial justice should be preferred over technical justice. The applicant/revisionist may be deprived from raising his contention against the impugned order in revision, in case the prayer to condone the delay is turned down, and thus it may cause grave miscarriage of justice to the revisionist.

**12.** In view of aforesaid facts and circumstances, application number 4 Kha deserves to be allowed subject to the payment of costs.

**ORDER**

Application number 4 Kha under Section 5 of the Limitation Act 1963 is hereby allowed subject to the payment of cost Rs. 500/-. Delay caused in filing revision is condoned. Put up on 24.03.2026 for hearing on admission of Revision.

Date: 13.03.2026

**(Shesh Mani)**  
Sessions Judge  
Chitrakoot.  
ID UP 5751