



UPME010007602026

IN THE COURT OF SESSIONS JUDGE, MEERUT

Present:- Arvind Kumar Mishra- II, HJS (U.P.-6030)

Criminal Miscellaneous Case No.-71 of 2026

Ankit Kumar

vs. Kirti

15.06.2026

1. Called out.
2. Learned counsel for the applicant is present whereas learned counsel for the opposite party is not present.
3. Learned counsel for the applicant moved application 7Kha along with affidavit 8Kha, under Section 5 of the Limitation Act for condonation of the delay in filing criminal appeal against order dated 18.07.2025 passed in Complaint Case No.240 of 2024, *Smt. Kirti vs. Ankit Kumar*, under Section 23 of D.V. Act, Police Station- Medical, District-Meerut.
4. In the said application, it has been stated that applicant after getting knowledge about the said impugned order he immediately approached the learned Magistrate by filing a recall application on 19.09.2025, but the same was not heard. Thereafter, he filed transfer application before learned C.J.M. which was rejected by him. He further stated that delay occurred due to appellant bona fide pursuing alternate remedies which constitutes sufficient cause for condonation under Section 5 of the Limitation Act.
5. **Heard and perused the file.**
6. A perusal of the file it reveals that, by the impugned order dated 18.07.2025, the learned trial court directed applicant to pay sum of Rs. 3000/- per month to the opposite party i.e., Kirti as her maintenance. The applicant filed a criminal appeal against the impugned order on 14.01.2026. According to the Munsarim's report, the appeal was filed with a delay of 149 days and the grounds mentioned in his appeal found sufficient and it seems that the appellant has not deliberately delayed in filing the appeal. Application is supported with an affidavit. Hence, it would be proper to condone the delay in filing this criminal appeal with a fine of cost.

7. The Hon'ble Supreme Court of India in case law **Abdul Gafoor and others vs. State of Bihar reported in 2012 AIR 640**, has held that if the cause of delay is found sufficient and justifiable, then delay should be condoned.

8. Therefore, in view of the aforesaid dictum of the Hon'ble Supreme Court and the facts and circumstances of the case, and in the interest of justice, it would be appropriate to condone the delay of 149 days in filing the present criminal appeal so that it may be decided on its merits. Accordingly, Application No. 7Kha deserves to be allowed, subject to payment of costs.

ORDER

Application 7Kha of the applicant moved under Section 5 of the Limitation Act is allowed, subject to the payment of costs amounting to Rs. 1000/-, and the delay incurred in filing the Criminal Appeal is hereby condoned.

The imposed costs shall be paid to the District Legal Services Authority, Meerut. After payment of cost, applicant is directed to appear for hearing on admission on 25.06.2026.

Dated- 15.06.2026

**(Arvind Kumar Mishra-II)
Sessions Judge,
Meerut.**

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