

GJSK180010662022



ORDER BELOW EX.1 IN CRI.MISC.(DELAY) APPL.NO.516/2022.

1. This application is filed to condone the delay of three days caused in preferring the Criminal Appeal being aggrieved by the conviction order passed by learned Additional Chief Judicial Magistrate, Khedbhrama on 13/09/2022 in C.C.No.5356/2021.
2. The order of the learned Additional Chief Judicial Magistrate, Idar is dated :13/09/2022. The delay is explained by the applicant by stating that he had no bad intention to fling late appeal but he had surrendered before the learned trial by himself, therefore he could not filed the appeal against the conviction order in time.
3. I have heard learned advocate for applicant and gone through the record of this application.
4. Following points for determination have been arisen:
 1. Whether there is sufficient cause to condone the delay occurred in filing criminal appeal?
 2. What order?
5. My findings on the above points are as under with recorded reasons thereon : -
 1. In the affirmative.
 2. As per final order.

REASONS

Issue No. 1 :

6. The primary function of the Court is to adjudicate the dispute between the parties and to advance substantial justice. Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The Law of Limitation is thus founded on public policy. Condonation of delay is a matter of discretion of the Court. Section 5 of the Limitation Act does not say that such discretion can be exercised only, if the delay is within the certain limit. Length of delay is no matter, acceptability of the explanation is the only criteria.

In every case of delay, there can be same lapse on the part of the litigant concerned. The words "sufficient cause means" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice. The Court should be ordinarily lenient and liberal in determining the sufficiency or reasonability of ground for condonation so as to see that no meritorious matter is thrown away on a technical plea of delay.

7. I have carefully gone through the papers placed on record. The delay occurred in this case is only three days. It is important to note that the right and dispute of the parties is required to be decided on merits. The parties shall not be deprived of his right to get justice only on the technical ground of limitation. As per settled legal position held by the Hon'ble Apex Court in many decisions, while considering the question of condonation of delay, the Court should take a liberal view and while considering the application for condonation of delay, no strait jacket formula is prescribed to condone the delay. If sufficient ground has been made out, the Court has to take lenient view. Therefore, I am of the view that the right of the parties is required to be decided on merits rather than on the technical ground of limitation. There is no mala-fide intention on part of the applicant to file delay condonation application. Further, if I allow this application, then the opponent will neither suffer in any manner, nor it will cause any prejudice to him. If I reject this application only on the technical ground, then the applicant would be deprived of his right of getting justice. Therefore, the contention raised by the learned advocate for the applicant is required to be taken into consideration. Considering the facts and circumstances of the present case, I am of the view to condone the delay and to allow this application. Hence, I pass following final Order:-

ORDER

The present application is allowed.
The delay caused in filing Criminal Appeal is hereby condoned.
The criminal appeal be numbered and registered accordingly.

Signed and pronounced in open court on this 19th day of
October-2022.

(Sawaisingh Mohansingh Rajpurohit) GJ00544
2nd Additional Sessions Judge
Sabarkantha @Idar.