

Criminal Revision 33 of 2025

Order No. 06 dt. 04.09.2025

Today is fixed for passing order on petition u/s 5 of Limitation Act.
Revisionist files hazira.

The present criminal revision has been filed praying for setting aside the impugned order dated 22.03.2024 in M Case No. 317 / 2023 , u/s 125 Cr.P.C, whereby and whereunder Ld. ACJM Kakdwip has allowed the case exparty in part .

It has been contended before this forum that the revisionist /husband did not receive the notice of the M Case No. 317 / 2023 and as such he had no knowledge regarding the filing of that case. So he could not appear to contest the case and it was disposed exparty against him. Thereafter the wife filed Misc Exe Case 102/2024 and the notice of this case was also not received by this revisionist/husband. As a result D/W was issued against him and thereafter on 22.04.2025 W/A was issued against this revisionist. Only then the revisionist after obtaining the certified copies on 07.07.2025 came to know the aforesaid facts and the present criminal revision has been filed..

Hence is the present application praying for condonation of delay.

The proof of “sufficient cause” is a condition precedent for the exercise of the discretionary jurisdiction vested in the court. What counts is not the length of the delay, but the sufficiency of the cause.

Hon'ble Apex Court has made it clear that section 5 is to be construed liberally so as to do substantial justice to the parties.

The expression “sufficient cause” is adequately elastic to enable the court to apply the law in a meaningful manner which subserves the ends of justice. It should therefore be considered with pragmatism in justice oriented approach rather than the technical detection of sufficient cause for each day's delay.

At the same time it is true that liberal approach of the expression “sufficient cause” does not mean that every cause placed by the party has to be accepted.

Sufficient cause seems to mean not only those circumstances which the law expressly recognizes as extending the time, but also such circumstances as are not expressly recognized , but which may appear to the court to be reasonable looking into all the facts of the case.

It is true that a person coming to the court after the prescribed period is required to explain the delay and he can succeed in getting the delay condoned only when he satisfactorily explains it . But a court of law cannot require such a person to explain the delay with mathematical precision. The court dealing with an application u/s 5 must take a liberal view and should not be over strict and highly technical so as to sacrifice the cause of substantial justice. When the court speaks about every day's delay being explained, they do not canvass that a hypertechnical , pedantic and unpragmatic view should be taken. The doctrine must be applied in a rational, commonsense and pragmatic manner.

At this juncture , it will be again profitable to look at the judicial opinion of our Hon'ble Apex Court, in this regard.

The Hon'ble Apex Court in ***AIR 1987 SC 1353*** has made sincere attempt to percolate down to all other courts in the hierarchy its message of liberal approach in the matters of condonation of delay. What the Hon'ble Court felt is a “ justice oriented” or “liberal approach” which is required to be adopted in exercising discretion u/s 5 of Limitation Act.

The expression “sufficient cause” , wherever possible, should be construed liberally in the absence of any inaction , negligence or want of bonafides of the party concerned and if the two views are reasonably possible on the facts of records, the view which would enable a litigant to participate in the lis should be preferred in accordance with the principle of natural justice.

So in the case in hand , it appears that the revisionist has been able to satisfactorily explain the cause of delay in filing the present criminal revision.

Thus in light of the aforesaid discussion, the petition u/s 5 of Limitation Act is allowed.

Issue the requisites upon OP/wife after proper verification.

Fix 25.11.2025 for S/R of notice.

D/C by me

Additional Sessions Judge, 1st Court
Kakdwip, South 24 Parganas.

Additional Sessions Judge, 1st Court
Kakdwip, South 24 Parganas.
(J.O. Code - WB00875)