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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 2378 of 2025

1 - State Of Chhattisgarh Through The Station House Officer, Out Post C.S.E.B. Police Station Civil Lines Rampur, District Korba C.G.

... **Petitioner(s)****versus**

1 - Mohammad Mustafa S/o Mohd Amir Hasan, Aged About 39 Years R/o Fulwariya, Post Office Kinaru, Police Station Maniyari, District Mujaffarpur (Bihar) Present Address Dhondhipara, Main Road, Public Toilate, Outpost Civil Lines Rampur District Korba C.G.

... **Respondent(s)**

For Petitioner/State : Ms. Supriya Upasane, Govt. Advocate.

For Respondent(s) : Mr. Akash Ahuja, Advocate.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.**Order on Board****30/03/2026**

1. Heard Ms. Supriya Upasane, learned Govt. Advocate, appearing for the petitioner and Mr. Akash Ahuja, learned counsel for the respondent on I.A. No. 01, which is an application for condonation of delay of 350 days in preferring the instant appeal.
2. The State/petitioner has preferred the instant application for grant of leave to appeal and appeal against the judgment of acquittal

dated 01.05.2024, passed in Special Case (POCSO) No. 10/2023, by the Learned Additional Sessions Judge, F.T.S.C (POCSO) Korba, District Korba (C.G), whereby acquitting the accused/respondent from the offence punishable under Section 354 of IPC and Section 8 of POCSO Act, 2012 in connection with Crime No. 346/2023 at Outpost C.S.E.B., Police Station Civil Lines Rampur, District Korba (C.G.).

3. Learned counsel for the petitioner / State submits that though the scope of interference with an order of acquittal is limited, the appellate Court nonetheless possesses wide powers of re-appreciation of evidence, and where such reappraisal reveals that the findings of acquittal are unjust, perverse or against the weight of evidence, the appellate Court is fully empowered to reverse the same. Learned State counsel submits that the impugned judgment passed by the learned Trial Court is patently erroneous, perverse, and contrary to the settled principles of law. Despite there being ample, cogent, and reliable evidence available on record establishing the guilt of the accused/respondents, the learned Trial Court has erroneously acquitted them on wholly insignificant, unreasonable, and legally unsustainable grounds. Learned trial Court failed to appreciate the circumstances and acquitted the respondents on account of minor omissions and contradictions.
4. It has been contended that the State, after obtaining necessary documents and information with respect to the case preferred the

present petition, however, some delay was occurred due to fulfillment of various departmental formalities and working of the Government machinery because the State Government is a multi functioning body, hence, at times the fulfillment of departmental formalities takes unexpected long time. Therefore, in some cases the State is prevented from filing the case within the prescribed period of limitation, which is bonafide and not deliberate. The instant appeal is, therefore, being filed after a delay of 350 days from the prescribed period of limitation. Reliance has been placed upon the judgment rendered by Hon'ble Supreme Court in the matter of **State of Haryana v. Chandra Mani and others, (1996) 3 SCC 132**, to buttress his submissions. As such, the learned State counsel prays that the delay of 350 days in preferring the petition may be condoned.

5. The question for determination before this Court is whether the provisions of Section 5 of the Limitation Act, 1908 (i.e. Act 9 of 1908 i.e. the old Limitation Act) would apply to an application for leave to appeal from an order of acquittal.
6. The Hon'ble Supreme Court in the matter of **Postmaster General and others v. Living Media India Limited and another, (2012) 3 SCC 563**, has dealt with the limitation issue and held as under:-

“27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the

Department was possessed with competent persons familiar with court proceedings. **In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.**

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, **the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.**

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the

appeals are liable to be dismissed on the ground of delay.”

7. Recently, the Hon’ble Supreme Court in the matter of **State of Madhya Pradesh v. Ramkumar Choudhary, 2024 INSC 932**, while considering the delay, issued some directions and observed as follows:-

“5. The legal position is that where a case has been presented in the Court beyond limitation, the petitioner has to explain the Court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the Court within limitation. In *Majji Sannemma v. Reddy Sridevi*, 2021 SCC Online SC 1260, it was held by this Court that even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute. A reference was also made to the decision of this Court in *Ajay Dabra v. Pyare Ram*, 2023 SCC Online 92 wherein, it was held as follows:

"13. This Court in the case of *Basawaraj v. Special Land Acquisition Officer* [(2013) 14 SCC 81] while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

“15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be

decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

14. Therefore, we are of the considered opinion that the High Court did not commit any mistake in dismissing the delay condonation application of the present appellant.”

Thus, it is crystal clear that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that, the expression 'sufficient cause' cannot be liberally interpreted, if negligence, inaction or lack of bona fides is attributed to the party.

5.1. In *Union of India v. Jahangir Byramji Jeejeebhoy (D) through his legal heir*, 2024 INSC 262, wherein, one of us (J.B.Pardiwala, J) was a member, after referring to various decisions on the issue, it was in unequivocal terms observed by this Court that delay should not be excused as a matter of generosity and rendering substantial justice is not to cause prejudice to the opposite party. The relevant passage of the same is profitably extracted below:

“24. In the aforesaid circumstances, we made it very clear that we are not going to look into the merits of the matter as long as we are not convinced that sufficient cause has been made out for condonation of such a long and inordinate delay.

25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the

time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.

26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy

and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.

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34. In view of the aforesaid, we have reached to the conclusion that the High Court committed no error much less any error of law in passing the impugned order. Even otherwise, the High Court was exercising its supervisory jurisdiction under Article 227 of the Constitution of India.

35. In a plethora of decisions of this Court, it has been said that delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case.

36. For all the foregoing reasons, this appeal fails and is hereby dismissed. There shall be no order as to costs."

Applying the above legal proposition to the facts of the present case, we are of the opinion that the High Court correctly refused to condone the delay and dismissed the appeal by observing that such inordinate delay was not explained satisfactorily, no sufficient cause was shown for the same, and no plausible reason was put forth by the State. Therefore, we are inclined to reject this petition at the threshold.

At the same time, we cannot simply brush aside the delay occurred in preferring the second appeal, due to callous and lackadaisical attitude on the part of the officials functioning in the State machinery. Though the Government adopts systematic approach in handling the legal issues and preferring the petitions/applications/appeals well within the time, due to the fault on the part of the officials

in merely communicating the information on time, huge revenue loss will be caused to the Government exchequer. The present case is one such case, wherein, enormous delay of 1788 days occasioned in preferring the second appeal due to the lapses on the part of the officials functioning under the State, though valuable Government lands were involved. Therefore, we direct the State to streamline the machinery touching the legal issues, offering legal opinion, filing of cases before the Tribunal / Courts, etc., fix the responsibility on the officer(s) concerned, and penalize the officer(s), who is/are responsible for delay, deviation, lapses, etc., if any, to the value of the loss caused to the Government. Such direction will have to be followed by all the States scrupulously.

7. There is one another aspect of the matter which we must not ignore or overlook. Over a period of time, we have noticed that whenever there is a plea for condonation of delay be it at the instance of a private litigant or State the delay is sought to be explained right from the time, the limitation starts and if there is a delay of say 2 years or 3 years or 4 years till the end of the same. For example if the period of limitation is 90 days then the party seeking condonation has to explain why it was unable to institute the proceedings within that period of limitation. What events occurred after the 91st day till the last is of no consequence. The court is required to consider what came in the way of the party that it was unable to file it between the 1st day and the 90th day. It is true that a party is entitled to wait until the last day of limitation for filing an appeal. But when it allows the limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before the limitation expired it was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute such sufficient cause. There may be events or circumstances subsequent to the expiry of limitation

which may further delay the filing of the appeal. But that the limitation has been allowed to expire without the appeal being filed must be traced to a cause arising within the period of limitation. (See: *Ajit Singh Thakur Singh and Another v. State of Gujarat*, AIR 1981 SC 733)."

8. Taking into account the facts and circumstances of the present case, in the light of aforementioned judgments of the Hon'ble Supreme Court in the matters of **Postmaster General** (supra) and **Ramkumar Choudhary** (supra), it is evident that Government departments are under a special obligation to discharge their duties with due diligence and commitment. Condonation of delay is an exception, not the rule, and cannot be claimed as a matter of right or anticipated privilege by Government entities. The law casts its protection equally upon all litigants and cannot be distorted to confer undue advantage upon a select few.
9. Upon considering the matter in its entirety, I find that the State has failed to provide any proper or satisfactory explanation for the delay in filing the present petition. The only reason cited is that the Law & Legislative Affairs Department, Government of Chhattisgarh, Mantralaya, Naya Raipur, had forwarded a proposal to the Office of the Advocate General for initiating an appeal against the impugned acquittal order dated 01.05.2024. Thereafter, the case was processed, and the present petition was ultimately filed. However, this sequence of events, lacking in specificity or justifiable cause, does not amount to a cogent or

acceptable explanation. Thus, the State has miserably failed to demonstrate sufficient cause warranting the condonation of an inordinate delay of 350 days.

10. Consequently, I am not inclined to exercise our discretionary power under the law to condone such extraordinary delay. The learned counsel for the State has not been able to establish any convincing or bona fide reason for the delay. Therefore, there is no justification for condoning the delay of 350 days in filing the petition against acquittal.
11. In view of the above, the instant petition seeking leave to appeal is hereby **rejected** on the ground of **delay and laches**.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sagrika