

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR CONDONATION OF DELAY)
NO. 22727 of 2019**

**In R/CRIMINAL REVISION APPLICATION NO. 1630 of 2019
With**

R/CRIMINAL REVISION APPLICATION NO. 1630 of 2019

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JIGNABEN ASHISHBHAI KANTARIA & ANR.

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR TATVDEEP J JANI(7227) for the Applicant(s) No. 1,2

MR CH DAVE, ADDL.PUBLIC PROSECUTOR for Respondent(s) No. 1

RULE SERVED for the Respondent(s) No. 2

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CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI

Date : 02/05/2024

ORAL ORDER

ORDER IN CRIMINAL MISC. APPLICATION :

1. This application under Section 5 of the Limitation Act has been preferred to seek condonation of delay of 115 days in preferring revision against the order passed by the learned Family Court, Rajkot in Criminal Misc. Application No.284 of 2014.

2. The present application is filed at the instance of the wife and she is seeking enhancement in the maintenance granted under Section 125 of Cr.P.C., *inter alia* on the ground that learned Family Court has not assessed the income of the husband in its true perspective and properly.

3. Having heard learned advocates for the respective parties and having gone through the application and grounds mentioned

therein, I find that they are sufficient to condone the delay. Para 3 of the application memo consisting reasons reads as under :

“3. The applicants respectfully say and submit that the applicant is semi literate person and residing with he minor child. The applicants respectfully submit that after receiving the certified copy of the judgment and order and other papers from the court, the advocate has not suggested to challenge that order. the applicants respectfully submit that then after in month of June, 2019, some time has lapsed for managing the finance for school fees of her child. Thenafter, the applicant has approached other advocate at Rajkot in month of August, 2019 and sought his opinion on as to special circumstances whether it is advisable to file the appeal/revision or not. The concerned advocate has suggested that revision should be filed. Hecne the applicant has approached the advocate practicing before this Honourable Court for filing the appeal. Thus, some more time has lapsed for managing the finance for filing the present appeal before this Honourable Court.”

4. It is settled principle of law that instead of pedantic approach, the Court is required to take liberal approach and to address the issue on merit. The destituted wife has preferred this application seeking condonation of delay in preferring revision for enhancement of the maintenance. I found merit in the application for condonation of delay. Without expressing further on the merits, while remaining within the realm of Section 5 of the Limitation Act, I grant the present application. The delay of 115 days caused in filing the revision is condoned. Rule is made absolute.

ORDER IN CRIMINAL REVISION APPLICATION :

5. The main revision be listed on 27.06.2024.

GAURAV J THAKER

(J. C. DOSHI, J)