

Manoj Kumar Vs. Rakesh Kumar

Cr. MP(M) No. 2616 of 2025

25.11.2025 Present: Ms. Sneh Bhimta, Advocate, for the applicant.

Mr. Shakti Bhardwaj, Advocate, for the respondent/non-applicant.

Reply to the application not filed.

Further adjournment, for this purpose, is not justifiable, as sufficient opportunities have already been granted to file reply. As such, right to file reply is closed, by the orders of the Court.

2. The applicant has filed the accompanying Cr. Revision, against the judgment dated 17.3.2023, passed by the Court of learned Sessions Judge (Forests), Shimla, H.P. (hereinafter referred to as 'the Appellate Court'), by virtue of which, the learned Appellate Court has dismissed the appeal, which has been preferred, against the judgment of conviction and order of sentence, dated 15.11.2022, passed by the Court of learned Judicial Magistrate First Class, Jubbal, District Shimla, H.P. (hereinafter referred to as 'the trial Court').

3. Vide judgment of conviction and order of sentence, as referred to above, the learned trial Court has convicted the applicant,

for the commission of offence, punishable under Section 138 of the N.I. Act, and sentenced him to undergo simple imprisonment, for a period of one year, and to pay compensation of Rs. 7,00,000/-.

4. Since, the revision has been filed, after the prescribed period of limitation, as such, delay, which, as per the report of the Registry is 2 years, 7 months and 15 days, has been sought to be condoned, mainly on the ground that the applicant remained under the impression that he is being represented by his counsel and he would intimate him about the fate of the case. When, in the year 2024, the applicant inquired from his counsel about the fate of his case, then, it was informed that his appeal has already been dismissed, in the year 2023.

5. The applicant has further pleaded that he is the sole bread earner of his family and remains mostly in travelling, in connection with his business.

6. As per the further case of the applicant, he and complainant are relatives, and the complainant had assured him that they will get the matter compromised, therefore, acting

upon his assurance, he has not filed the Cr. Revision.

7. Apart from this, the applicant has further pleaded that he is looking after his aged and ailing mother, who is suffering from Arthritis and Hypothyroidism. Due to said reason, he could not file the Revision petition, within the prescribed period of limitation.

8. On the basis of above facts, a prayer has been made to condone the delay in filing the present Revision, which is duly supported by an affidavit of the applicant.

9. Although, reply to the application has not been filed by learned counsel for the respondent/non-applicant, however, it has been pointed out that there is no explanation, qua the delay of 2 years, 7 months and 15 days, in filing the present Revision.

10. Considering the fact, which has been highlighted by learned counsel for the respondent, this Court is of the view that length of delay does not matter, and it is the explanation, which matters.

11. In this case, the applicant has categorically submitted that when his matter was

pending before the learned trial Court, he remained under the impression that fate of his case will be intimated to him by his counsel and when, he inquired about the fate of his case, in the year 2024, he came to know that his appeal has already been dismissed, in the year 2023. Not only this, as per his further assertions, he and the complainant are relatives, and the complainant has assured him that they will get the matter compromised.

12. The factual position, as mentioned in the application, has not been controverted by the respondent/non-applicant, as despite of giving the opportunity, respondent has not filed the reply. Meaning thereby, whatsoever has been averred by the applicant, in the application, remains uncontroverted.

13. In such situation, this Court is of the view that when the appeal of the applicant has been dismissed by the learned Appellate Court, which has been preferred against the judgment of conviction and order of sentence, as referred to above, he is not going to achieve anything in preferring the present Revision, within the prescribed period of limitation, had he not been

prevented by the reasons, as mentioned in the application.

14. Moreover, the meritorious matters should not be thrown away at the threshold, and the same should be decided on merits and not on the basis of technicalities.

15. Considering the aforesaid facts, delay in filing the present Revision petition is ordered to be condoned. The application is, thus, disposed of.

Cr. Revision No. _____

16. Vide separate order of even date, passed in Cr. MP(M) No. 2616 of 2025, delay in filing the present Revision petition, has been ordered to be condoned.

17. Be registered.

18. Call for the records.

Cr. MPST No. 10302 of 2025

19. Since the revision against the judgment of conviction and order of sentence, as referred to above, will take sufficient long time, for its disposal, as such, the order of sentence, dated 15.11.2022 is suspended during the pendency of the revision, subject to the following conditions:

(i) That the applicant shall furnish personal bond in the sum of Rs. 50,000/-, alongwith one surety of the like amount, to the satisfaction of the learned trial Court, within a period of one week from today, with an undertaking that in the event of final dismissal of the revision petition, he will surrender before the learned trial Court to serve the remainder substantive sentence;

(ii) That the applicant shall deposit 30% of the total amount of compensation, with the learned trial Court, within a period of one week from today, which shall be in addition to the amount, if any, already deposited by the applicant;

(iii) That the applicant shall not leave the country without the prior permission of the Court.

20. The application is, thus, disposed of.

21. A copy of this order be sent to the learned trial Court, with the direction that the report of compliance of this order be submitted to this Court, on or before the next date of hearing.

(Virender Singh)
Judge

November 25, 2025
(kalpana)