

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 2402 of 2022

Rekha Devi, aged about 53 years, w/o Surendra Prasad @ Sudama Prasad, resident of Village-Mugalsarai, Lot No. 02, Near Indira Gandhi Bayamshala, P.O.-Mugalsarai, P.S.-Mugalsarai, Dist.-Chandauli (UP). At present Rekha Devi, d/o Jagdish Prasad Swarnkar, Village-Taratand Ward No.5, Jhumri Telaiya, P.S.-Telaiya, P.O.-Telaiya, Dist.-Koderma.

.... Petitioner

Versus

1. The State of Jharkhand
2. Surendra Prasad @ Sudama Prasad, son of Sri Krishna Prasad Seth, aged about 55 yrs., resident of Village- Mugalsarai, Lot No. 02, Near Indira Gandhi Bayamshala, P.O. & P.S.-Mugalsarai, Dist.-Chandauli (UP)
3. Krishna Prasad Seth, son of late Sitaram Seth, aged about 90 yrs, resident of Village- Mugalsarai, Lot No. 02, Near Indira Gandhi Bayamshala, P.O. & P.S.-Mugalsarai, Dist.-Chandauli (UP)
4. Barti Devi, wife of late Krishna Prasad Seth, aged about 80 years, resident of Village- Mugalsarai, Lot No. 02, Near Indira Gandhi Bayamshala, P.O. & P.S.-Mugalsarai, Dist.-Chandauli (UP)
5. Vijay Kumar, son of Krishna Prasad Seth, aged about 45 yrs., resident of Village- Mugalsarai, Lot No. 02, Near Indira Gandhi Bayamshala, P.O. & P.S.-Mugalsarai, Dist.-Chandauli (UP)
6. Surya Shekhar Prasad, son of Puranmal Poddar, aged about 45 yrs., resident of Village-Bhadedih, P.O. & P.S.-Telaiya, Dist.-Koderma (Jharkhand)
7. Laxmi Devi, w/o Surya Shekhar Prasad, aged about 50 yrs., resident of Village-Bhadedih, P.O. & P.S.-Telaiya, Dist.-Koderma (Jharkhand)
8. Balgovind Prasad @ Balgovind Poddar, s/o Jainath Poddar, aged about 56 yrs. resident of Village-Devi Mandap Road, Jhumri Telaiya, At present- r/o Ram Nagar, near Gas Godown Gali, Ward No. 24, P.O. & P.S.-Telaiya, Dist.-Koderma (Jharkhand)
9. Sarwati Devi, w/o Balgovind Prasad, aged about 55 yrs., resident of Village-Devi Mandap Road, Jhumri Telaiya, At present- r/o Ram Nagar, near Gas Godown Gali, Ward No. 24, P.O. & P.S.-Telaiya, Dist.-Koderma (Jharkhand)

10. Jainath Poddar, s/o late Ramdhani Poddar, aged about 85 yrs., resident of Village-Chakai Khas, P.O. & P.S.-Chakai, Dist.-Jamuai (Bihar)

11. Sita Devi, w/o Jainath Poddar, aged about 76 yrs., resident of Village-Chakai Khas, P.O. & P.S.-Chakai, Dist.-Jamuai (Bihar)

.... Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

.....
For the Petitioners : Mr. Mahesh Tewari, Advocate
For the State : Mr. Fahad Allam, Addl. P.P.
For O.P. No.2 : Mr. Birendra Kumar, Advocate
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By the Court:-

1. Heard the parties.
2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 482 Cr.P.C. with the prayer to quash/set aside the order dated 21.02.2022 passed by the learned Sessions Judge, Koderma in Criminal Revision No. 39 of 2020 whereby the learned Sessions Judge, Koderma has dismissed the criminal revision being barred by limitation.
3. The brief fact of the case is that the petitioner who is the complainant of Complaint Case No. 347 of 2005 *inter alia* involving the offences punishable under Sections 498A and 494 of the Indian Penal Code filed Criminal Revision No. 39 of 2020 against the order dated 25.03.2019 passed by the learned Judicial Magistrate 1st Class, Koderma in the said complaint case; whereby and where under, the learned Judicial Magistrate 1st Class, Koderma directed the accused persons to be present for the purpose of framing of charge. Admittedly, the said criminal revision was filed after a

delay of 353 days. A petition under Section 5 of the Limitation Act was also filed with the prayer to condone the delay in filing the said criminal revision. The grounds taken in the said petition filed under Section 5 of the Limitation Act was that the petitioner is a lady. She was suffering from fever and mental tension. The undisputed fact remains that the application under Section 5 of the Limitation Act was not accompanied by any document in support of the claim of the petitioner that she was ill during the entire period of 353 days.

4. The learned Sessions Judge, Koderma considering the facts of the case did not condone the delay in filing this said criminal revision and dismissed the revision being barred by limitation.
5. Learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court of India in the case of **State of Nagaland vs. Lipok Ao & Ors.** in Appeal (Crl.) No. 484 of 2005 dated 01.04.2005 wherein the Hon'ble Supreme Court of India relied upon its own judgment in the case of **O.P. Kathpalia v. Lakhmir Singh** reported in (1984) 4 SCC 66 wherein the Bench of three judges had held that refusal to condone the delay results in grave miscarriage of justice. The Hon'ble Supreme Court of India in that case also relied upon its own judgment in the case of **Collector Land Acquisition vs. Katiji** reported in (1987) 2 SCC 107 wherein the Bench of two judges in an appeal filed by the State held that Section 5 of the Limitation Act was enacted in order to enable the court to do substantial justice to the parties by

disposing of matters on merits and 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. In that case, the Hon’ble Supreme Court of India further observed that the expression “every day’s delay must be explained” does not mean that a pedantic approach should be made.

6. Learned counsel for the petitioner next relied upon the judgment of the Hon’ble Supreme Court of India in the case of **N. Balakrishnan vs. M. Krishnamurthy** reported in (1998) 7 SCC 123 and submits that in that case, the Hon’ble Supreme Court of India relied upon its own judgment in the case of **Shakuntala Devi Jain vs. Kuntal Kumari** reported in AIR 1969 SC 575 wherein it was held that “sufficient cause” under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice.

7. Learned counsel for the petitioner further relied upon the judgment of the Hon’ble Supreme Court of India in the case of **State (NCT of Delhi) vs. Ahmed Jaan** reported in (2008) 14 SCC 582 wherein, the Hon’ble Supreme Court of India relied upon its own judgment in the case of **G. Ramegowda Major vs. Spl. Land Acquisition Officer** reported in (1988) 2 SCC 142 wherein, it was held that no general principle saving the party from all mistakes of its counsel could be laid. The expression “sufficient cause” must receive a liberal construction so as to advance substantial justice and generally delays in preferring the appeals are required

to be condoned in the interest of justice; where no gross negligence or deliberate inaction or lack of *bona fides* is imputable to the party seeking condonation of delay.

8. Learned counsel for the petitioner further relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & Ors.** in Civil Appeal Nos. 8183-8184 of 2013 dated 13.09.2013 wherein the Hon'ble Supreme Court of India has observed that while dealing with the application for condonation of delay if strict standard of proof is adopted, the same may lead to grave miscarriage of public justice apart from resulting in public mischief by skilful management of delay in the process of filing the appeal.
9. Learned counsel for the petitioner lastly relied upon the judgment of the Hon'ble Supreme Court of India in the case of **Mool Chandra vs. Union of India & Anr.** reported in **2024 INSC 577** and submits that in paragraph no. 20 thereof, it was observed by the Hon'ble Supreme Court of India that if the cause for delay would fall within the four corners of "sufficient cause", irrespective of the length of delay, the same deserves to be condoned. It is then submitted by the learned counsel for the petitioner that in view of the settled principle of law, the learned Sessions Judge, Koderma has committed a grave illegality in refusing to condone the delay in filing of the Criminal Revision

No. 39 of 2020. Hence, it is submitted that the prayer as made in this criminal miscellaneous petition be allowed.

10. The learned Addl. P.P. and the learned counsel for the opposite party no.2 on the other hand vehemently opposes the prayer as prayed for by the petitioner in this criminal miscellaneous petition and submits that since the petitioner has failed to put forth any sufficient cause of not filing petition for 353 days; keeping in view the conduct of the petitioner in filing criminal revisions in the same case against every order, so the learned Sessions Judge, Koderma has rightly held that the petitioner failed to establish sufficient cause to condone the delay in filing the criminal revision. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.
11. Having heard the submissions made at the Bar and after going through the materials available in the record, it is pertinent to mention here that the Hon'ble Supreme Court of India in the case of **Thirunagalingam v. Lingeswaran and Another** reported in **2025 INSC 672 : 2025 SCC OnLine SC 1093**, paragraph nos. 31 to 33 of which reads as under:-

"31 It is a well-settled law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.

32. Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as

an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.

33. *Therefore, in the case at hand, once it has been established that the reasons provided for condoning the delay in the application filed are not sufficient, we are not inclined to go into the merits of the contentions raised by the learned counsel of Respondents regarding Section 14 of the Limitation Act, 1963." (Emphasis supplied)*

has reiterated the settled principle of law that the delay should not be condoned merely as an act of generosity and the pursuit of substantial justice must not come at the cost of causing prejudice to the opposite party.

12. Now coming to the facts of the case, it is the contention of the petitioner that she was ill and suffering from fever. It is not forthcoming as to whether the petitioner was suffering from fever for 353 days. The other ground is that she was suffering from mental tension which is a very vague ground. The fact remains that there was no document to support the contention of the illness of the petitioner. So in the absence of any specific pleading as to from which date to which date, the petitioner was suffering from fever and considering the fact of the case, as the petitioner has not come up with any specific ground to condone the long delay of 353 days, this Court is of the considered view that there is no perversity committed by the learned Sessions Judge, Koderma in refusing to condone the delay of 353 days in the absence any sufficient cause shown for such long delay warranting

interference with the said order in exercise of the power under
Section 482 of the Code of Criminal Procedure.

13. Accordingly, this criminal miscellaneous petition being without
any merit is dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 25th November, 2025
AFR/Sonu-Gunjan/-

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