

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1754 of 2017

Buddhinath Choubey, son of late Mahadeo Choubey, resident of
Village-Budhasan, P.O. & P.S.-Meharma, Dist.-Godda, Jharkhand

.... Petitioner

Versus

1. The State of Jharkhand
2. Chandra Shekhar Singh, son of late Ganga Singh
3. Sanjay Singh, son of Sikander Singh
4. Narendra Kumar Singh, son of Jagdish Singh
5. Shiv Narayan Harijan, son of late Namani Harijan
6. Rana Kumar Singh, son of Awadh Kishore Singh
7. Anil Singh, son of late Ramjee Singh
8. Sunil Singh, son of late Ramjee Singh
9. Arvind Pandey, son of Shashidhar Pandey
10. Shashi Kant Singh, son of late Surendra Singh
11. Hiralal Das, son of late Dhala Das
12. Anant Singh, son of Ramdeo Singh
13. Ganga Yadav, son of late Munshi Yadav
14. Jay Prakash Singh, son of late Jyotish Singh
15. Mukesh Singh, son of Sadanand Singh
16. Manjay Hembrom, son of late Guru Hembrom
17. Jay Hind Prasad Singh, son of late Shiv Narayan Singh
18. Atul Singh, son of late Hari Prasad Singh

All (No.2 to 18) are resident of Village+P.O.-Budhasan, P.S.-
Meharama, Dist.-Godda, Jharkhand

.... Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Petitioner : Mr. J.P. Jha, Sr. Advocate

For the State	: Mr. Aishwarya Prakash, Advocate
For the O.P. Nos.2 to 18	: Mr. Sardhu Mahto, Addl. P.P.
	: Mr. Krishna Murari, Advocate
	: Mr. Raj Vardhan, 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 of Cr.P.C. with the prayer to quash the order dated 15.02.2017 passed by the learned Sessions Judge, Godda in Criminal Revision No. 09 of 2015 as the learned Sessions Judge, Godda has condoned the delay in filing the said application, though a written application under Section 5 of the Limitation Act was filed by the opposite party nos.2 to 18 herein, yet without issuing notice to the petitioner herein, who was the opposite party in the said criminal revision; before condoning the delay.
3. Relying upon the judgment of the Hon'ble Supreme Court of India in the case of **State of Maharashtra vs. Sharadchandra Vinayak Dongre & Ors.** reported in (1995) 1 SCC 42, it is submitted by the learned Senior Advocate appearing for the petitioner that in paragraph no. 5 thereof, the Hon'ble Supreme Court of India has justified the order of the High Court in holding that the delay, if any, for launching the prosecution could not have been condoned without notice to the respondents and behind their back and without recording any reason for condonation of delay.

4. Learned Senior Advocate appearing for the petitioner next relies upon the judgment of the Division Bench of this Court in the case of **The State of Jharkhand & Ors. vs. Ashok Kumar Chokhani & Ors.** reported in **2012 0 Supreme (Jhk) 1008** wherein, the Division Bench of this Court reiterated the settled legal position that the appellate court cannot decide the appeal on merits without condoning the delay in filing the appeal, if it is filed after period of limitation and went on to observe that in case of filing the appeal after a delay of few days only, the Court cannot allow the application for condonation of delay without giving notice to the other party. It is further submitted by the learned Senior Advocate appearing for the petitioner that since the petitioner has not been given any opportunity of being heard in the matter of limitation though a valuable right has accrued to the petitioner, after the period of limitation for filing revision was over, in respect of the impugned order, therefore dislodging the said valuable right accrued to the petitioner by condonation of delay behind the back of the petitioner; amounts to grave illegality. Hence, it is submitted that the impugned order be set aside.
5. The learned Addl. P.P. and the learned counsel for the opposite party no.2 on the other hand vehemently opposes the prayer and submits that the petitioner participated in the criminal revision without *demur* knowing pretty well that the delay has been condoned without notice to the petitioner and having participated in the entire criminal proceeding and having not specifically

challenged the said order, the final order cannot be challenged by the petitioner. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

6. Having heard the submissions made at the Bar and after going through the materials in the record, it is pertinent to mention here that when the limitation period to file a revision expires, a legal right accrues in favour of the opposite party and to take away this right by condoning the delay, the principles of natural justice is required to be followed and such principles of nature justice includes that the opposite party be given an opportunity of being heard, in the matter of limitation also.
7. Perusal of the record reveals that vide order dated 26.02.2015 the learned Sessions Judge, Godda in Criminal Revision No. 09 of 2015 has mentioned that "Heard on the point of admission along with u/s 5 of the limitation Act. Perused the case record. Delay is condoned".
8. The order dated 26.02.2015 is certainly not a reasoned order nor the petitioner herein who was the opposite party in the said revision was given any opportunity of being heard by the learned Sessions Judge, Godda, in the matter of limitation. As already indicated above, certainly with the expiry of period of limitation to file criminal revision, a legal right has accrued to the opposite party and by condonation of the delay, the petitioner has been deprived of the said right accrued to him.

9. It is a settled principle of law that principle of waiver, acquiescence or estoppel is not applicable to any criminal proceeding. Since, the entire revisional order is under challenge, this includes the challenge to the order by which the delay was condoned and without that, the final order could not have been passed against the petitioner.
10. Under such circumstances, since the learned Sessions Judge, Godda has condoned the delay in filing the criminal revision without a reasoned order and without giving any opportunity of being heard to the petitioner herein who was the opposite party before the revisional court, this Court is of the considered view that the subsequent final order passed in the said revision dated 15.02.2017 in Criminal Revision No. 09 of 2015 is not sustainable in law. Accordingly, the same is quashed and set aside.
11. The Criminal Revision No. 09 of 2015 is remitted to the court of learned Sessions Judge, Godda to pass a fresh order in the matter of the application under Section 5 of the Limitation Act, filed in that criminal revision, after giving notice and opportunity of being heard to all the opposite parties of that criminal revision.
12. In the result, this criminal miscellaneous petition is allowed to the aforesaid extent only.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 21st January, 2026
AFR/Sonu-Gunjan/-

Uploaded on 27/01/2026