

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
F.A. No.233 of 2023**

Dipti Sharma

....

Appellant

Versus

Gunjan Sharma

....

Respondent

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD**

For the Appellant

: Ms. Oishi Das, Advocate

20/Dated 14.01.2026

I.A. No.2464 of 2024

1. Heard Ms. Oishi Das, learned counsel for the applicant-wife.
2. This is an application seeking condonation of delay of 2333 days in instituting an appeal against the judgment and order dated 27.01.2015 made by the Family Court.
3. The applicant has made categorical averments in the application seeking condonation of delay that she had no knowledge about the entire proceedings in T.M.S. No.275 of 2013 or the passing of the impugned judgment and order dated 27.01.2025. She has stated that her husband-respondent obtained her signature on blank papers purporting to be for depositing money in the bank; however, the same may have been used to file the Vakalatnama and the written statement in the suit without the applicant's knowledge.
4. The applicant has pleaded that the respondent-husband was harassing her, and after the harassment became unbearable, she lodged a criminal case against her husband. At the time of the hearing of the Anticipatory Bail Application in July 2023 or

thereabouts, the respondent-husband referred to the impugned judgment and decree of divorce made in T.M.S. No.275 of 2013.

5. After that, the applicant, who was then residing at her father's house in Islampur, District-Nalanda, Bihar, had to establish contacts in Bokaro to obtain the case papers concerning T.M.S. No. 275 of 2013 and the certified copy of the judgment and order. This was done as expeditiously as possible, i.e., by August 2023. However, by the time the applicant obtained all the copies, engaged a lawyer, and had the appeal memo and an application for condonation of delay drafted and filed, it was the 1st of September 2023.

6. There was difficulty in service for the respondent-husband. Ultimately, he was served through substituted service, and such proof of service is on record.

7. Despite service, the respondent-husband has not countered any of the statements made by the applicant, which were duly supported by her affidavit, by filing his counter-affidavit. However, since the delay was substantial, we thought it appropriate to review the Family Court records concerning T.M.S. No. 275 of 2013.

8. The records show that some lawyers intermittently appeared on behalf of the applicant. Ms Das states that this was possibly due to the respondent-husband's misuse, as explained in the application seeking condonation of delay. The record also shows that the written statement was filed in the matter and duly verified. Again, at this stage, it is impossible to conclude one way or the other. But the fact remains that the respondent, despite notice, has not bothered to

counter the applicant's allegations.

9. The record also discloses that the learned Family Court Judge directed the applicant's personal presence, as recorded in the Roznama dated 30th January 2014. However, later, it appears that the learned Family Court Judge did not bother to ascertain whether the applicant personally appeared in the matter. Once there was an order for the personal appearance of the applicant, the learned Family Court Judge should have either waited for her personal appearance or at least made any endorsements in the roznama about service being effected upon the applicant and, despite such service, the applicant failing to attend the matter. Even the Advocate alleged to have been engaged by the applicant was appearing in the matter only intermittently.

10. That apart, Ms Das has referred us to paragraph 8 of the impugned judgment and decree. In this paragraph, the learned Family Court Judge, at least *prima facie*, has referred to certain defences allegedly raised on behalf of the applicant in the written statement purportedly filed by her. However, on perusing the written statement, we do not find any such defenses raised or case put up.

11. Upon cumulative consideration of all these circumstances, we are inclined to condone the delay, even though the delay is substantial. The matters of this nature, it is not the length, the delay, but the quality of explanation which is crucial.

12. The Hon'ble Supreme Court, in the case of ***N. Balakrishnan Vs. M. Krishnamurthy (1998) 7 SCC 123*** has held that in every

matter concerning condonation of delay, there may be some lapse on the part of the applicant. However, that alone cannot be a ground for denying the condonation. If the cause shown is reasonable and not put forward as some kind of dilatory tactics, the Court is expected to show utmost consideration to a suitor.

13. In this case, the applicant has alleged fraud against her husband. On the perusal of the record, there is no clarity about the service or, in any event, about the applicant consciously engaging any advocate or filing her written statement based upon her instructions. The applicant and her husband were always residing together, and therefore, the applicant was not even aware of the impugned divorce decree. It is only after she filed a criminal complaint against her husband that the husband referred to this impugned judgment and decree. Within a reasonable time thereafter, this appeal was filed along with an application for condonation of delay. For all the above reasons, we allow this interlocutory application and condone the delay.

14. Interlocutory Application being I.A. No. 2464 of 2024 stands disposed of.

First Appeal No.233 of 2023

15. List this case on **16th of March 2026**.

16. Unfortunately, the applicant/appellant, will have to once again serve the respondent.

17. Considering the difficulties in service on the previous occasion, we grant the applicant to serve the respondent by substituted

service, i.e., Paper Publication.

18. The applicant is to take the necessary steps for the service.

(M.S. Sonak, C.J.)

(Sujit Narayan Prasad, J.)

14.01.2026
Alankar-Rohit/-