

IN THE COURT OF MANIPUR

AT IMPHAL

Cril. Revision Petition No. 1 of 2025

1. Moirangthem Binoy Singh aged about 36 years, S/o M. Ingocha Singh, of Heirok Part-II Maning Leikai, P.O. Wangjing, P.O. Heirok, Thoubal District, Manipur.
2. Moirangthem Sunolata Devi, aged about 56 years, W/o M. Ingocha Singh, of Heirok Part-II Maning Leikai, P.O. Wangjing, P.O. Heirok, Thoubal District, Manipur.

....Petitioners

-Versus-

Khundongbam (N) Moirangthem (O) Minata Chanu aged about 35 years, W/o Moirangthem Binoy Singh of Heirok Part II, Bazar Mamang, P.O. Wangjing, P.S. Heirok, Thoubal District, Manipur.

....Respondent

BEFORE

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the Petitioners	:	Mr. B. Prem Sharma, Advocate
For the Respondent	:	Mr. S . Jhaljit, Advocate
Date of Hearing	:	18.07.2025
Date of Order	:	16.09.2025

ORDER [CAV]

[1] This criminal petition under Section 438 of Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023 is filed by the petitioners against the order dated 21.10.2024 passed by the learned Session Judge, Thoubal Manipur in Cril. Misc. Case No. 141 of 2024, thereby dismissing the application under Section 5 of the Limitation Act for condoning a delay of 168 days in filing appeal against the final judgment & order dated 08.12.2023 passed by learned Judicial Magistrate First Class, Thoubal in Cril. Complaint (DV) Case No. 5 of 2020 awarding compensation of Rs. 3,00,000/- to the respondent.

Brief fact of the case-

[2] The petitioner No.1 and the respondent got married under the Hindu customary rites on 02.03.2020 and since then they live as a husband and wife. The respondent (wife) was serving as contractual training graduate teacher of Jawahar Novodaya Vidyalaya Nongstoin, West Khasi Hills, Meghalaya and at present she is a housewife and the petitioner (husband) is serving as Lance Naik being No. 15723812Y of the Technician of Telecommunication in the Indian Army C/O 56 APO and now posted at the unit of 8th Mountain Division Signal Regiment, Khumbathong, District Kargil, Union Territory Ladakh.

[3] The respondent (wife) filed a Cril. (Complaint) DV Case No. 5 of 2020 against the petitioners herein under Section 12 of the Protection of Women from Domestic Violence Act 2005 before learned Judicial Magistrate First Class, Thoubal, Manipur. On 09.08.2022 case was proceeded ex-parte against the petitioner due to non-appearance of the petitioner. Vide judgment & order dated 08.12.2023, learned JMFC,

Thoubal held that the respondents/petitioners herein committed domestic violence against the complainant/respondent herein and directed to pay a compensation amount of Rs. 3,00,000/- (three lakhs only) by the petitioners severally or jointly to the complainant for causing damages, mental torture, emotional distress, etc.

[4] The petitioners filed Cril. Misc. Case No.141 of 2024 before the Sessions Judge Thoubal, Manipur under section 5 of the Limitation Act for condoning the delay of 168 days in filing the Cril. Appeal against the order dated 08.12.2023.

[5] The days of delay as show below :

08/12/2023 : Date of passing impugned judgment and order.

04/03/2024 : Date which application for obtaining the certified copy of the impugned Order and Judgment.

08/03/2024 : Dated of receiving impugned Order and Judgment.

24/05/2024 : Date of filling the present appeal.

to

08/12/2023 : Number of days in delay in preferring the present appeal is 168 days.

[6] Learned Sessions Judge, Thoubal rejected the application for condonation of delay of 133 days vide order dated 21.10.2024 on the ground that the petitioners miserably failed to show sufficient cause for the delay so caused in filing the appeal. It was held that even though the petitioner No.1 was posted outside, there was no explanation on the part of the petitioner No.2 to prefer the appeal within the time. It was further observed that the counsel suffering injury due to accident was not a good cause for non-appearance before the trial court.

[7] Hence, the petitioners have filed this present Cril. Revision Petition against the impugned Order dated 21.10.2024 passed by Ld. Session Court, Thoubal in Cril. Misc. Case No. 141 of 2024.

[8] Mr. B. Prem Sharma, learned counsel for the petitioners has submitted that the order passed in Cril. Complaint (DV) No.5 of 2020 on 08.12.2023 and summon/Notice of the cril. Execution Case No. 2 of 2024 sent on 19.01.2024 and accordingly, the knowledge of the disposal of the case was known to petitioners only in the last week of January, 2024 after expiry of the period i.e. 30 days for filing the appeal.

[9] The learned counsel for the petitioners has further submitted that the total number of days counting from the date of Order and Judgment i.e., 08.12.2023 to 24.05.2024 is 168 days. After deducting/ excluding the number of 30 days and excluding other exempted number of days for obtaining certified copy as per law, the number of days to be condoned is $(168-30-5) = 133$ days.

[10] It is also submitted that the standing counsel for the respondents in the Cril. Complaint (DV) Case No.5 of 2020 Mr. Oinam Ramananda Singh, Advocate had suffered serious injuries due to road traffic accident that led to a prolonged illness. His injuries later developed into lung cancer and additional diseases and passed away on 11.12.2023. To obtain the file and documents of the case from his relatives some valuable number of days were lost which include the counting of condonation of delay.

[11] It is also submitted that the petitioner No.1 is serving as Lance Naik in the Indian Army and currently posted outside the state of Manipur.

Thus, some days were lost in order to contact and obtain the signature of the petitioner.

[12] It is further submitted that litigants should not be made to suffer due to unavoidable circumstances on the part of the counsel as held by catena of cases of Supreme Court.

[13] Mr. S. Jhaljit, learned counsel of the respondent has submitted that the revisionists cannot show good and sufficient cause of filing beyond the stipulated time. The domestic violence case was filed by the present respondent against the petitioners and not against their conducting counsel. Their conducting counsel Mr. Ramanda Advocate now deceased is not in any manner, related to the petitioners/Revisionists. He was merely a representative of the petitioners and nothing more. The unfortunate events concerning the counsel cannot be considered a reason of sufficient cause for condoning the delays in filing the Revision, when the counsel died after almost four years after the accident. During this time, the petitioners did not take up any step for engaging a new counsel nor did they appear before the court to contest the case. Accordingly, they were proceeded ex-parte and the final order was passed on the basis of materials on record.

[14] The learned counsel of the respondent refers to the decision of Hon'ble Supreme Court in the case of **Pathapati Subba Reddy (Died) By L.Rs. and others vs Special Deputy Collector (LA)** reported in **(2024) SCC Online SC 523** at para 25 that no court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The relevant para is reproduced below :

"25. This Court in the same breath in the same very decision vide para 15 went on to observe as under:

"15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

[15] This Court has gone through the materials on record, the submissions made at bar and the case law cited by the parties.

[16] It is true that as none appeared on behalf of the petitioners after filing the objections before trial court, accordingly, the petitioners who were respondents in the DV complaint case, were proceeded ex-parte and vide order dated 08.12.2023 learned JMFC, Thoubal directed the petitioners herein to pay a compensation of Rs.3,00,000/- to the respondent. The petitioners were held liable to pay severally and jointly.

[17] The reason for delay of 133 days in filing the appeal against the order of learned JMFC was that the counsel for the petitioners met an accident on 04.03.2020 and he died on 11.12.2023. Due to this reason, the petitioners were not represented before the trial court, proceeded ex-

parte and they came to know about the order when served with a copy of the execution case in the last part of January 2024. Since the petitioner No.1 was posted outside Manipur, it took some time in preparation for filing the appeal. In the application for condonation of delay, it has been specifically pleaded that the parties should not be made to suffer for the lapses or inaction of the parties.

[18] On perusal of the documents, specially the medical records of the deceased counsel for the petitioners, it is seen that their counsel met accident on 04.03.2020 and he was discharged normally on 05.03.2020. Thereafter, he expired on 11.12.2023 due to cancer. From the fact that the counsel for the petitioners was discharged normally after one day of hospitalisation for accident, it showed that the injury was not serious. The expiry after almost four years was not related to the injury sustained in the accident, but due to cancer. There was no valid explanation for this long period of inaction. As rightly held by the learned Sessions Judge, the role of the petitioner No.2 who is in Manipur and has been directed to pay the compensation severally and jointly, has not been explained at all. She could have taken steps to contest the DV complaint and for filing the appeal.

[19] In the recent case of **Rajneesh Kumar & Anr. V. Ved Prakash: 2024 INSC 891: 2024 SCCOnline SC 3380** @ Para 10, Hon'ble Supreme Court deprecated the tendency of the party to blame the counsel and held as follows:

"10. It appears that the entire blame has been thrown on the head of the advocate who was appearing for the petitioners in the trial court. We have noticed over a period of time a tendency on the part of the litigants to blame their lawyers of negligence and carelessness in attending the proceedings before the court. Even if

we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief."

[20] In the fact of the present case, the petitioners have miserably failed to explain the delay so caused in filing the present appeal. Their counsel met accident on 04.03.2020 and was discharged on 05.03.2020, thereby showing that the injury was not serious. There is no material on record to show that the counsel could not practice due to the accident. His death was due to cancer and that too after almost four years after the accident. There is no explanation for not engaging a new counsel in spite of having knowledge about the injury to the counsel. The role of petitioner No.2 who is very much in Thoubal district in not engaging a new counsel, has not been explained at all.

[21] In the circumstances, this Court does not find any valid reason for interfering with the decision of the learned Sessions Judge, Thoubal in rejecting the application for condonation of delay. Accordingly, the revision petition is dismissed being devoid of any merit. No cost.

KH.
JOSHUA
MARING

Digitally signed
by KH. JOSHUA
MARING
Date: 2025.09.16
14:05:05 +05'30'

JUDGE

FR/NFR

suchitra