

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

MC(Mat.App.)No.7 of 2024

Moirangthem Binoy Singh.

Applicant

Vs.

Khundongbam(N) Moirangthem (o) Minata Chanu.

Respondent

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. D. KRISHNAKUMAR
HON'BLE MR. JUSTICE A.GUNESHWAR SHARMA**

24.01.2025

D. Krishnakumar, C.J. :

Mr. B. Prem Sharma, learned counsel, appears for the applicant and Mr. S. Jhalajit, learned counsel, appears for the respondent.

The appellant has filed instant appeal against the judgment & order dated 21.11.2023 passed in Cril.(M) Case No. 16 of 2020. By the said order dated 21.11.2023, the Family Court passed an order by disposing the aforesaid Criminal case by ordering to pay a sum of Rs.15,000/- per month to the respondent herein.

According to the applicant, he has filed certified copy for judgement and order on 11.07.2024 and the same was received on 15.07.2024. It is further states in the affidavit that the date of passing the impugned order by the Court below on 21.11.2023 and submitted certified submitted certified copy for judgment on 11.07.2024. According to the petitioner, the counsel appearing for the petitioner who was suffering illness of swelling at the body part of wrist and belly and accordingly, the present conducting counsel could not filed in time. Therefore, the counsel appearing for the petitioner was not in a position to file certified copy in time. Hence, the aforesaid delay has been occurred and the petitioner could not submitted application within the prescribed time.

The counter affidavit has been filed by the respondent denying the said averments made by the petitioner. According to the respondents that the details of the delay in filing the appeal in the condone delay application is not correct. According to him, he has given the details that the total number of delays in filing the appeal is 324(three hundred and twenty four days) and not as averred by the petitioner. According to the respondent, the factually said statements of the petitioner is not correct. Besides, the learned counsel for respondent would submits that the averment made by the petitioner that due to illness, the said certified copy has not been filed before the Court below, is without any material on records and therefore, the same ought to have been rejected.

According to the respondent that the appellant claims that a Summons copy of the fresh Execution Case No.3 of 2024 was sent to the applicant on 18.06.2024 and the same was received by the applicant after some days, yet the present appeal was filed only on 11.07.2024. Thus, according to the respondent herein, the appellant has not satisfied the delay in filing the appeal.

Considering the submission of the parties and perused the materials on record and we have gone through the averment made in the affidavit filed by the petitioner and this Court found that the petitioner has not given sufficient reasons for condoning the inordinate delay in filing the appeal.

According to the applicant that the counsel who was suffering from illness therefore, there is delay in filing certified copy before the Court below and on receipt of the said certified copy, he has filed the present appeal this Court along with the present condone delay application.

Though the respondent has specifically stated that the delay in filing an appeal is not as averred by the petitioner and the said total number of delay is 324 days. Even assuming that the delay of 259 days is taken upon, the reasons that the petitioner has to contact the counsel and counsel for taking steps for filing an appeal but there is no documents before this Court to show that the applicant has approached the counsel to appear before the High Court for further course of action for filing an appeal. In absence of the said details in

the affidavit, merely making an averments on the side of the counsel for the applicant and without having any other documents to prove before this Court, we are not inclined to accept the said condone delay of the applicant for entertaining the said condone delay application. In such circumstances, there is no satisfactory explanations for condoning the delay of 259 days in filing an appeal. The matter is also pertaining to the maintenance case where the order was passed by the court below directing to pay a sum of Rs. 15,000/- per month to the respondent herein and since there is no bonafide reasons in the submissions of the learned counsel for the applicant and in such circumstances, we are not accepting the submissions made by the learned counsel for the applicant.

In view of the above observations, the present application is rejected and consequently the Matrimonial appeal is also dismissed. No order as to costs.

JUDGE

CHIEF JUSTICE

John Kom