

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

MC(Cril.A)No.43 of 2024

Thiyam Ongbi Ibemcha Devi

Applicant

Vs.

State of Manipur.

Respondent

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

20.02.2025

D. Krishnakumar, C.J. :

[1] Mrs. N. Elizabeth, learned counsel, appears for the applicant and Mr. RK Umakanta, learned PP for the State.

[2] The instant application has been filed by the applicant who was accused in the Sessions trial Court in case No.8 of 2016 on the file of Sessions Court Imphal East for the lifetime imprisonment.

[3] In the petition, the appellant does not get necessary support from her family to pursue her case, therefore, she could not make appropriate arrangement for availing the legal remedy under the law against the impugned Judgement & Order dated 27.02.2018 passed in the Session Trial Case No.8 of 2016 by the Session Court, Manipur East on account of lack of financial resources, logistic etc. During the inspection by the High Committee, the Committee has noticed that the said accused person/applicant has no sufficient means to approach the High

Court for filing the appeal against the Judgement & order dated 27.02.2018 passed by the Sessions Court in the Session Trial Case No.08 of 2016. Therefore, the High Court Legal Services Authority has taken a decision to render legal assistance to the accused person/applicant on 02.04.2018 appointing Smt. N. Elizabeth, Advocate as Legal Aid Counsel for the accused/applicant and thereafter, the counsel for the applicant is not in a position to file an appeal due to Covid-19 Pandemic, it takes time to collect relevant records from the concerned trial Court. Moreover, the record room were affected as such all the relevant files were displaced due to the on and off flood at District & Session court, Imphal East at Cheirap Court Complex, Imphal Manipur. Therefore, the aforesaid delay in filing the appeal is only about said bonafide reasons.

[3] Though counter affidavit has been filed by the State respondent objecting the said inordinate delay in filing the appeal and the entire affidavit has been narrated the facts of the case in which the applicant was involvement in the aforesaid murder case.

[4] Considering the said submissions that the applicant/accused has no legal access to file an appeal, due to the aforesaid reasons that she does not have the means to defend her case and therefore, the High Court Legal Services Authority has stepped into for rendering legal service to the aforesaid applicant/accused and hence, the High Court Legal Services Authority has advised the counsel to appear for applicant/accused and to file an appeal before the High Court. Since the counsel for the applicant/accused due to the various

reasons as stated in the earlier paragraphs that they are not in a position to get the entire records as well as due to other reasons of natural calamities such as Covid-19 pandemic etc. they are not in a position to file an appeal within the reasonable time. Due to the above bonafide reasons, the appeal has not been preferred. Though the Judgement of the Supreme Court in the case of *Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy & Ors.* held that whether it is a long delay or short delay, must also see on the other grounds for condoning the delay if the other party is not prejudiced and the relevant paras are reproduced as under:

“18. Recently in Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai, the learned Judges referred to the pronouncement in Vedavai v. Shantaram Baburao Patil wherein it has been opined that a distinction must be made between a case where the delay is inordinate and a case where the delay is of few days and whereas in the former case the consideration of prejudice to the other side will be a relevant factor, in the latter case no such consideration arises. Thereafter, the two-Judge Bench ruled thus: (Maniben Devraj Shah case, SCC pp. 168-169, paras 23-24)”

23. What needs to be emphasized is that even though a liberal and justice-oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost.

24. What colour the expression ‘sufficient cause’ would get in the factual matrix of a given case would largely depend on bona

fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.”

“21.1. (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

21.2. (ii) The terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

21.3. (iii) Substantial justice being paramount and pivotal the technical should not be given undue and uncalled for emphasis.

21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.”

[5] Normally this Court will not entertain the inordinate delay in filing such an application to condone the delay in filing the appeal. However, considering the peculiar circumstances of the case and in light of the decision of the Hon’ble Supreme Court that there will be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay. This is a fit case to consider the reasons as adduced in the affidavit for the inordinate delay in filing the appeal. Thus, the contention of the petitioner is

accepted for condoning the delay in filing the said appeal and in such circumstances, the delay in filing the appeal is condoned and consequently, the application is allowed.

[6] Registry is directed to number the appeal.

JUDGE

CHIEF JUSTICE

John Kom