

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA

Cr.M.P. (M) No. 1904 of 2025

Reserved on: 18.12.2025

Date of decision: 23.12.2025

Kuldeep Kumar Dhiman.

...Applicant.

Versus

Geeta Devi & Another.

...Respondents.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?¹ Yes.

For the Applicant.

Mr.Hemant Kumar Thakur, Advocate.

For the Respondents:

Mr.Nishant Khidtta, Advocate.

Vivek Singh Thakur, Judge

This application has been preferred by applicant for condonation of delay of 185 days in filing Revision Petition against order dated 24.1.2025 passed in petition filed under Section 125 of the Code of Criminal Procedure (for short 'Cr.P.C.') in CIS Case No. 47 of 2020, titled as Smt. Geeta Devi and Another Vs. Kuldeep Kumar Dhiman.

¹***Whether the reporters of the local papers may be allowed to see the Judgment?***

2. Respondent No. 1 filed an application claiming maintenance for her and her minor daughter respondent No. 2 under Section 125 of the Cr.P.C. from present applicant Kuldeep Kumar Dhiman, which has been partly allowed by Principal Judge, Family Court, Kinnaur Sessions Division at Rampur Bushahr by awarding monthly maintenance to petitioner No. 2 to the tune of ₹3,000/- per month from the date of filing of the petition, i.e.. 11.1.2019, whereas petition qua petitioner No. 1 has been dismissed.

3. It has been pleaded on behalf of applicant that delay in filing Revision Petition is neither intentional nor deliberate, but for the reasons that applicant was not duly informed by his previous counsel about passing of impugned order dated 24.1.2025 and, therefore, applicant remained unaware about status of the case, and he came to know about passing of order only when his close friend, who is also an Advocate, checked the Court record on behalf of applicant in third week of June, 2025 and thereafter informed the applicant accordingly.

4. According to applicant immediately after knowing about passing of order, he applied for certified copy of impugned order on 24.6.2025, which was delivered to him on 25.6.2025. Thereafter in second week of July, 2025, applicant met present counsel, discussed legal aspects and implication of impugned order in detail and on receiving

advise, instructed to file present Revision Petition without any further delay.

5. With aforesaid submissions, it has been stated that delay in filing the Revision Petition is bonafide for the above stated reasons and by delaying filing of petition, applicant has not derived any benefit, rather he will suffer irreparable loss, if delay is not condoned and main matter is not adjudicated on merits, and allowing the application will not cause any prejudice to the respondents, instead rejection of application will cause grave injustice to the applicant.

6. Application has been vehemently opposed by and on behalf of respondents. Detailed reply has also been filed opposing the application.

7. It has been submitted on behalf of respondents that applicant was party before the Family Court and had been pursuing his case and was coming to Rampur on the dates fixed in the case regularly and, therefore, there cannot be any reason for applicant to be unaware about the status of the case. Further that applicant has not disclosed about the identity of his Advocate friend, nor there is any reasonable explanation why applicant was not aware about the status of the case and negligent to know the same, more particularly about the decision of the case. It has been further stated that there is no explanation that why

applicant asked his Advocate friend to check the Court record on his behalf during third week of June 2025, instead contacting his counsel first through whom he was contesting the case and was duly represented by his counsel.

8. It has been further contended on behalf of respondents that applicant has not come to the Court with clean hands because there is no plausible explanation for causing delay, much less substantial cause, nor any reasonable ground for justifying bonafide act of the applicant. Further that applicant is well to do person, who has taken VRS from IPH Department and he enjoys high status in the society and he also remained Pradhan and is also owner of shops, whereas respondent No. 1 is Anganwari Worker and respondent No. 2 is minor child and they have become destitute and allowing the application will cause grave prejudice to the respondents affecting their rights vested for not filing appeal within limitation period.

9. In response to the reply, rejoinder has been filed by applicant, by re-iterating the pleadings contained in the application. It has been denied that applicant was regularly appearing in the Family Court during pendency of proceedings. Further that there is no document showing that applicant was informed by his counsel about passing of impugned order, and further that checking of status of case through an

Advocate friend is not unusual but natural and does not negate bonafides, and negligence, if any, of previous counsel cannot prejudice the litigant. Therefore, it has been prayed that by giving liberal interpretation of sufficient cause, delay in filing the petition be condoned.

10. Applicant has to show and establish sufficient cause for not preferring the Revision Petition within limitation period, as required to be explained under Section 5 of the Limitation Act, which reads as under:-

“5. Extension of prescribed period in certain cases.—Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.—The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section.”

11. Applicant has placed on record copies of certain order sheets, pertaining to the record of Family Court, which indicates that he was duly represented by counsel Mr.B.S. Thakur, Advocate and impugned order dated 24.1.2025 was passed in presence of counsel of applicant. The averments made in the application as well as rejoinder are vague and are not addressing the questions/objections raised on behalf of respondents.

12. It is plea of the applicant that his Advocate did not inform about passing of impugned order and he came to know about it through his close friend, who is also an Advocate. Respondents have objected the veracity of this plea with unambiguous submission that even name of close friend has not been disclosed by the applicant. Despite raising such objection, in rejoinder also, identity of close friend has not been disclosed, and the circumstances in which applicant, instead of approaching his counsel for verifying the status of case, had approached his Advocate friend, have not been explained. From the order sheets, it is apparent that at least since 2.1.2021 till final decision, the applicant was duly represented by an Advocate and on these days the case before the Family Court was listed on actual dates. Not only this, applicant had appeared as a witness RW-1 in the Court, but also had examined Pradhan of Gram Panchayat as witness as RW-2. It is not a case where applicant was not aware about the working of the Court as well as procedure to be followed for contesting the case.

13. Though application has been supported by an affidavit of the applicant, however, no affidavit or any material has been placed on record disclosing the name of Advocate friend as well as circumstances in which Advocate friend was contacted by applicant. Mere averments that delay was neither intentional nor deliberate are not sufficient to prove the

bonafide in pursuing the matter. Non-disclosure of name of Advocate friend, despite objection raised by respondents in reply, constrains to arrive at a conclusion that this story is false and concocted and there was no Advocate friend as referred in the application.

14. From the averments made in the application, no reasonable and plausible explanation for delay or bonafide efforts, made by the applicant in pursuing the matter, is made out. Even, on account of absence of material including the affidavit of so called Advocate friend, on record to substantiate the plea, it appears that applicant has not come with clean hands and he is hiding some material from the Court.

15. We are of the considered opinion that no plausible cause, much less, substantial cause which prevented the applicant from filing Revision Petition in time, is made out and accordingly the application is dismissed.

***(Vivek Singh Thakur),
Judge.***

***(Romesh Verma),
Judge.***

23rd December, 2025
(Keshav)