

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CrIM(154/2025) in CrI(A) 5/2025.

Union Territory Through Police Station Pampore.

...Applicant(s)/Petitioner(s)

Through: Mr. Furqan Yaqub Sofi, GA. (Th. Virtual Mode)

VERSUS

Dr. Rehana Wife of Parvaiz Ahmad Wani.

...Respondent(s)

Through: Mr. Syed Faisal Qadiri, Senior Advocate with
Mr. Adnan Zahoor, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.

ORDER
02.03.2026

01. Registration of **FIR No. 110/2006** and its consequent investigation for alleged commission of offences under sections 314, 315, 304, 376 Ranbir Penal Code was carried out by the Police Station Pampore.
02. The incident which had led to the registration of said FIR was relatable to death of one-Mst. Rubeena, daughter of Mr. Ghulam Mohammad Khanday, resident of Meig Pampore, who suffered death under suspicious circumstances.
03. Mr. Ghulam Mohammad Khanday- the father of the deceased- Mst. Rubeena had submitted a written application by reference to section 174 of the Jammu and Kashmir Code of Criminal Procedure, Svt., 1989 (1938 A. D.).

04. During the course of investigation, the alleged mention of offence under section 376 Ranbir Penal Code was dropped and instead offences under section 318 read with Section 120-B of the Ranbir Penal Code came to be incorporated.

05. On the basis of purported investigation, the respondent- Dr. Rehana came to be implicated as the sole accused for the commission of offences under Sections 314, 315, and 304 of the Ranbir Penal Code.

06. The respondent, as accused, was put to rigour of trial and ultimately came out with a clean acquittal in terms of judgment dated **12.06.2024**, after having suffered the ordeal of trial of criminal case for almost 20 years with effect from **31.08.2007**, when the criminal case was instituted on **File No. 506/2013** before the Court of Principal Sessions Judge, Pulwama.

07. The Court of Principal Session Judge, Pulwama, after forensically dealing with genealogy of circumstances relating to the death of Mst. Rubeena, the daughter of complainant- Ghulam Mohammad Khanday, came up with the judgment of acquittal of the respondent accused- Dr. Rehana.

08. This Court is avoiding reference to the facts relating to deceased- Mst. Rubeena who was unmarried but came to have a medical condition which this Court deems it fit not to be referred to in the present for the sake of maintaining the dignity of deceased- Mst. Rubeena and her parental family.

09. Under J & K Limitation Act, Svt., 1995 (1938 A. D.) the period prescribed for filing an appeal against an acquittal judgment of a Court of Sessions Judge is Ninety (90) days by reference to article 155 of the Second Division of the Schedule to the J&K Limitation Act, Svt., 1995 (1938 A. D.) meaning thereby that time had started running against the then State (now U T) of Jammu and Kashmir from the very day of pronouncement of judgment dated **12.06.2024**. 90 Days' limitation period for preferring the acquittal appeal expired on **11th/12th September, 2024**.

10. During the period of limitation, there was no exercise whatsoever contemplated lest undertaken at the end of the Government of U T of Jammu and Kashmir to challenge the judgment dated **12.06.2024**.

11. The reason for this Court to observe that there was no such contemplation at the end of the UT of Jammu and Kashmir to challenge the acquittal judgment dated **12.06.2024** within the prescribed limitation period of 90 days' is that the Government Order No. **549-LD (ACQ) of 2025** dated **14.01.2025** itself came to be issued almost six months after the pronouncement of the acquittal judgment dated **12.06.2024** by the Court of Principal Session Judge, Pulwama.

12. Even on the basis of the Government Order **No.549-LD (ACQ) of 2025** dated **14.01.2025**, the institution of the appeal did not take place instantly or coinciding with the issuance of said Government Order but again after wastage of period of more than

one month when the present time-barred acquittal appeal came to be submitted before this Court on **18.02.2025**.

13. In the condonation of delay application- **CrIM No. 154/2025** which is literally a two-page application, it has bothered none to explain the delay even for namesake except stating that the matter remained under active consideration of the Administrative Department, where the judgment of acquittal was examined and the record of the case including the statements of witnesses was perused.

14. If this Court allows condonation of delay application-**CrIM No. 154/2025** bearing such so-called grounds for the cause of delay, then surely the law of limitation and condonation of delay is meant to be re-written for the Government of UT of J & K.

15. This Court is cognizant of position of law which has been reprised by the Hon'ble Supreme Court of India in the matter of condonation of delay relatable to a criminal acquittal appeal in the case of "**State of Nagaland Vs. Lipok AO And Ors**" (AIR 2005 SC 2191). In this case, the proceedings had originated when the Guwahati High Court had refused to condone the delay with respect to an application for grant of leave to appeal made under the Code of Criminal Procedure, 1973 against a judgment pronounced on **18.12.2002** by the Additional Deputy Commissioner (Judicial) Dimapur Nagaland.

16. The reasoning given for seeking condonation of delay was that the judgment was received in the Department on **15th**

January, 2003 and without wasting any time, on the same date relevant documents and papers were put up for necessary action before the Deputy Inspector General of Police (Hqs. Nagaland) who then on the same very day had considered the matter and forwarded the file for consideration to the Deputy Inspector General of Police, Nagaland. However, in the process, the file along with note- sheet had gone missing and time was lost in tracing the file which came to be found on **15.03.2003** resulting in final opinion coming on **26.03.2003** to file the appeal with the result that time-barred appeal came to be filed, upon the appointment of a Special Public Prosecutor, on **14.05.2003**.

17. Thus, the sufficient cause being pleaded was sourced to the fact that within the period of limitation requisite exercise for laying appeal had been set into effect which consumed time resulting in delay but nevertheless there was no lapse and laxity on the part of the State of Nagaland to feel and act concernedly in filing of an in-time appeal. In para 10 to 18 of its judgment, the Hon'ble Supreme Court of India has referred to the case law position with respect to condonation of delay adjudication attending the filing of time-barred legal proceedings.

18. This Court would have given scope to the applicant/appellant in the present case if in the application seeking condonation of delay had it been even whispered much less pleaded that immediately upon pronouncement of the acquittal judgment dated **12.06.2024**, the Government or the concerned

establishment of the Government of UT of J and K, which was meant to undertake the review of the situation attending the acquittal of the respondent in the criminal case, had taken up the responsibility and exercise related therewith within the period of limitation, and then even if the final action in coming up with institution of acquittal appeal taking place beyond the prescribed period of limitation, this Court would have surely accommodated the applicant/appellant with condonation of delay so as to hear the appeal on merits. However, since nothing of that sort has been put up in the condonation of delay application, as such this Court is not meant to provide palliation to the U T of Jammu and Kashmir earning condonation of delay as a matter of demand and supply.

19. Article 14 of the Constitution of India does not permit this Court to apply the rigour of law differently to ordinary litigants and favourably to the State and its functionaries.

20. In the light of the aforesaid, condonation of delay application- **CrIM No. 154/2025** is hereby **dismissed** and consequently, the time-barred appeal shall also stand **dismissed**.

(RAHUL BHARTI)
JUDGE

SRINAGAR
02.03.2026
Bisma Jan.