



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 306 OF 2026 (A)

BETWEEN:

1. STATE OF KARNATAKA
BY UPPINANGADY P.S.,
REPRESENTED BY THE STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU 560 001

...APPELLANT

(BY SRI. RAHUL RAI K., HCGP)

AND:

1. SANJEEVA NAIK
S/O. LATE THANIYAPPA NAIKA
AGED ABOUT 58 YEARS,
R/O KALPANE HOUSE, URUVALU VILLAGE,
BELTHANGADY TALUK,
DAKSHINA KANNADA DISTRICT
2. SMT GEETHA
W/O KOUSAPPA NAIK
R/O URUVALU VILLAGE,
BELTHANGADY TALUK, D.K DISTRICT.

...RESPONDENTS

(BY SRI. B..S. JEEVAN KUMAR, ADVOCATE FOR R1;
R2 SERVED, UNREPRESENTED)



THIS CRL.A FILED U/S 378(1) AND (3) CR.PC (419(1) AND (3) OF BNSS) BY THE SPP AND CR.PC PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO: A. GRANT LEAVE TO APPEAL AGAINST THE JUDGEMENT AND ORDER OF ACQUITTAL DATED 05.11.2024 PASSED IN SPL.C NO.49/2024 ON THE FILE OF THE ADDL.DISTRICT AND SESSIONS JUDGE, FTSC-II (POCSO) AT DAKSHINA KANNADA, MANGALURU ACQUITTING THE ACCUSED RESPONDENTS FOR THE CHARGED OFFENCES U/S 376AB OF IPC AND SECTION 6 OF POCSO ACT 2012; B. SET ASIDE THE JUDGMENT AND ORDER OF ACQUITTAL DATED 05.11.2024 PASSED IN SPL.C NO .49/2024 ON THE FILE OF THE ADDL.DISTRICT AND SESSIONS JUDGE, FTSC-II (POCSO) AT DAKSHINA KANNADA, MANGALURU BY ALLOWING THIS CRIMINAL APPEAL; AND ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE G. BASAVARAJA)

1. Appellant-State has preferred this appeal against the judgment of conviction and order on sentence dated 05th November, 2024, passed in Spl.C.No.49 of 2024 by the Court of Additional District & Sessions, Judge/FTSC-II (POCSO), Dakshina Kannada, Mangaluru.



2. There is a delay of 349 days in preferring the appeal. Application under Section 5 of Limitation Act, 1963 is filed seeking to condone the delay.

3. Application is supported by the affidavit of Sri B P. Manjunatha, in-charge Deputy Director of Prosecution, Litigation-1, Office of Director of Prosecutions and Government Litigations, Bengaluru. In the affidavit, it is stated that the judgment and order in Spl.C.No.49 of 2024 was passed by Additional District & Sessions Court, Dakshina Kannada, Mangaluru on 5th November, 2024. The Special Public prosecutor who has conducted the case has applied for certified copies of the judgment on 6th November, 2024 and received the same on 28th November, 2024. He sent his opinion on 30th November, 2024 to the Law Officer (Senior), and the Law officer sent his opinion on 07th December, 2024 to the Director of Prosecutions and Government Litigations, which was received by the head office on 2nd January, 2025. Then the Additional Director of Prosecutions has given her



opinion on 18th January, 2025, and the opinion file has been sent to Joint Director of Prosecutions, Litigation-1, and she has given her opinion on 20th January, 2025, and the file has been sent to the Government on the next day for final decision, since all have opined that it was a fit case for preferring appeal. The Government also opined the same and on 20th August 2025, vide letter No.HD:4607:HCP-1:2025, authorised the State Public Prosecutor to prefer the appeal. It is further stated that the file was required to pass through the trial Court, Public prosecutor, Law officer (Senior), Mysore Division, office of the Director of Prosecutions and Government Litigations, before passing an order to prefer appeal against the impugned judgment, and hence the delay has been caused due to above reasons. It is further stated that the delay is not intentional, but for the above stated, bona fide reasons. Hence, it is sought to condone the delay.

4. Memorandum of facts has been filed by the learned High Court Government Pleader, wherein it is



stated that the Government has issued sanction order to prefer an appeal before this Court, which was received by Office of the Advocate General on 9th March, 2025. It is stated that the said papers were allocated to her for drafting the appeal on 14th March, 2025. It is further stated that due to continuous assignment of work of attending the Court hall daily in criminal appeals and in bail matters and also in matters pertaining to 482 Code of Criminal Procedure, she was unable to draft the appeal in time. It is further stated that delay in preferring this appeal is not an intentional one but for the bona fide reasons. It is further stated that if the delay is not condoned, the State and the victim will be put to substantial injustice. Hence, it is sought to condone the delay and allow the appeal.

5. Statement of objections to the application filed under Section 5 of Limitation Act has been filed by the respondent. It is stated that though the copy along with opinion was sent on 30th November 2024, the Law Officer



sent his opinion on 7th December, 2024 to the director of prosecutions and Government litigations and the Additional Director of prosecutions gave her opinion on 18th January, 2025, which was sent to Joint Director of Prosecutions and she gave her opinion on 20th January, 2025. It is stated that though opinion was obtained in the month of January 2025, i.e. well within the limitation, the government has authorised for filing an appeal on 20th August, 2025. There is a delay of nearly six months and the delay for diverse dates is not explained properly and hence, sought for dismissal of the appeal.

6. Before appreciating the facts on record, it is relevant to refer to judgment of Apex Court in the case of STATE OF MADHYA PRADESH AND OTHERS v. BHERULAL reported in AIR ONLINE 2020 SC 833 in which, at paragraphs 3 to 7 of the judgment, the Apex Court has observed as under:

"3. No doubt, some leeway is given for the Government inefficiencies but the sad part is that the



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authorities keep on relying on judicial pronouncements for a period of time when technology had not advanced and a greater leeway was given to the Government (Collector, Land Acquisition, Anantnag & Anr vs. Mst. Katiji & Ors. (1987) 2 SCC 107). This position is more than elucidated by the judgment of this Court in Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr. (2012) 3 SCC 563 where the Court observed as under:

"12) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and



inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

13) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural redtape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay."

Eight years hence the judgment is still unheeded!"

4. A reading of the aforesaid application shows that the reason for such an inordinate delay is stated to be only "due to unavailability of the documents



and the process of arranging the documents". In paragraph 4 a reference has been made to "bureaucratic process works, it is inadvertent that delay occurs".

5. A preposterous proposition is sought to be propounded that if there is some merit in the case, the period of delay is to be given a go-by. If a case is good on merits, it will succeed in any case. It is really a bar of limitation which can even shut out good cases. This does not, of course, take away the jurisdiction of the Court in an appropriate case to condone the delay.

6. We are also of the view that the aforesaid approach is being adopted in what we have categorized earlier as "certificate cases". The object appears to be to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, say that nothing could be done because the highest Court has dismissed the appeal. It is to complete this formality and save the skin of officers who may be at default that such a process is followed. We have on earlier occasions also strongly deprecated such a practice and process. There seems to be no improvement. The purpose of coming to this Court is not to obtain such certificates and if the Government suffers losses, it is time when the concerned officer responsible for the same bears the



consequences. The irony is that in none of the cases any action is taken against the officers, who sit on the files and do nothing. It is presumed that this Court will condone the delay and even in making submissions, straight away counsels appear to address on merits without referring even to the aspect of limitation as happened in this case till we pointed out to the counsel that he must first address us on the question of limitation.

7. We are thus, constrained to send a signal and we propose to do in all matters today, where there are such inordinate delays that the Government or State authorities coming before us must pay for wastage of judicial time which has its own value. Such costs can be recovered from the officers responsible."

7. It is also pertinent to mention here that the Apex Court, recently in the judgment of *STATE OF ODISHA v. MANAGING COMMITTEE OF NAMATARA GIRLS HIGH SCHOOL* (2026 INSC 148) and in the case of *SHIVAMMA (DEAD) BY LR v. KARNATAKA HOUSING BOARD AND OTHERS* (2025 INSC 1104) has stated that sufficient cause must be construed in a manner that advances substantial



justice while preserving the discipline of limitation. It is further held that public interest does not lie in condoning governmental negligence, but in compelling efficiency, responsibility and timely decision-making. It is also held that condonation of delay cannot be claimed as a matter of right.

8. In the case on hand, the appellant has not produced any document to substantiate the affidavit of the director of prosecutions and government litigations as well as the memorandum of facts filed by the learned High Court government pleader. The application is filed in a mechanical manner showing no bona fide efforts to present the appeal at the earliest. Delay in filing the appeal has also not been satisfactorily explained by the State. Hence, considering the facts and circumstances of the case, as also keeping in mind the decisions of the apex court, we do not find any sufficient cause to condone the delay of 349 days in preferring the present appeal. In the result, we proceed to pass the following:



ORDER

1. IA.1 of 2026, filed under Section 5 of Limitation Act, 1963, seeking condonation of delay of 349 days in preferring the appeal is dismissed;
2. Consequently, appeal is also dismissed.

**Sd/-
(MOHAMMAD NAWAZ)
JUDGE**

**Sd/-
(G BASAVARAJA)
JUDGE**