



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 353 OF 2026 (C)

BETWEEN:

1. STATE OF KARNATAKA
BY YELAHANKA POLICE STATION
REP BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING
BENGALURU-01.

...APPELLANT

(BY SMT. PUSHPALATHA B., ADDL. SPP)

AND:

1. RAJA M.,
S/O MUNIRAJU,
AGED ABOUT 29 YEARS,
R/AT 7TH CROSS, KOGILU LAYOUT,
YELAHANKA, BENGALURU
2. MANJUNATH M.,
S/O MUNIRAJU,
AGED ABOUT 30 YEARS,
R/AT BARBENDING, 7TH CROSS,
KOGILU LAYOUT,
YELAHANKA, BENGALURU.



3. SRINIVASA,
S/O RAMU,
AGED ABOUT 28 YEARS,
R/AT NO.285, 3RD CROSS,
2ND MAIN ROAD, BANDE ROAD,
KOGILU LAYOUT,
YELAHANKA, BENGALURU
4. RAMAMURTHY
AGED ABOUT 72 YEARS
S/O LATE PONJAPPA
R/A NO.119 KOGILU VILLEGGE,
JALA HOBALI,
YELAHANKA, BENGALURU -560064

...RESPONDENTS

(R1 TO R4 ARE SERVED, UNREPRESENTED)

CRL.A FILED U/S 374(2) CR.PC (FILED U/S 415 OF BNSS) BY THE ADVOCATE FOR THE APPELLANT PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO A) GRANT LEAVE TO PREFER THE PRESENT APPEAL AGAINST THE JUDGMENT AND ORDER DATED 04.04.2024 PASSED IN SPL.C NO.1205/2019 BY THE COURT OF THE LXX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE, BENGALURU, INSOFAR AS IT ACQUITTED ACCUSED NO.1 OF THE OFFENCE PUNISHABLE UNDER SECTION 302 OF THE INDIAN PENAL CODE, 1860; B) ENHANCE THE SENTENCE IMPOSED UPON ACCUSED NO.1 IN RESPECT OF THE OFFENCE PUNISHABLE UNDER SECTION 302 OF IPC, ARISING OUT OF THE HOMICIDAL ACT, AS THE SENTENCE AWARDED IS GROSSLY INADEQUATE AND DISPROPORTIONATE TO THE GRAVITY OF THE OFFENCE; C) ENHANCE THE SENTENCE IMPOSED UPON ACCUSED NOS. 1 TO 3 FOR THE OFFENCE PUNISHABLE UNDER SECTION 3(2)(v) OF THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989, AS THE PUNISHMENT AWARDED IS MANIFESTLY INADEQUATE; D) ENHANCE THE SENTENCE IMPOSED UPON ACCUSED NO.3 FOR THE OFFENCE



PUNISHABLE UNDER SECTION 212 OF THE INDIAN PENAL CODE, 1860, IN THE INTERESTS OF JUSTICE; E) SET ASIDE THE FINDING WHEREBY ACCUSED NO.1 HAS BEEN CONVICTED FOR A LESSER OFFENCE AND IMPOSE APPROPRIATE CONVICTION FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 OF THE INDIAN PENAL CODE, 1860; AND ETC.

THIS APPEAL, COMING ON FOR ADMISSION, 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 filed Application IA.I of 2026 under Section 5 of Limitation Act, 1963 to condone the delay of 310 days from the date of judgment to the date of receipt of file by the Office of the State Public Prosecutor and the delay of 288 days from the date of receipt of file at the office of State Public Prosecutor for filing the appeal, in total, delay of 598 days in preferring the present appeal.

2. The Application is supported by the affidavit of Sri B.P. Manjunatha, Law Officer (Senior)(Criminal), SC/ST



Opinion Section, Office of Director of Prosecutions & Government Litigations, Bengaluru, in which it is stated that the judgment and order in Special Case No.1205 of 2019 was passed by the LXX Additional City Civil & Sessions Judge, Special Judge (CCH-71), Bengaluru on 04th April, 2024, which is under challenge in the present appeal. The Public Prosecutor has applied for the certified copy of the judgment on 05th April 2024, the copy of which was received on 20th April, 2024, and he sent his opinion on 24th April, 2024 to the Law Officer (Senior), Bengaluru and the Law officer sent his opinion on 03rd May 2024 to the Office of the Director of Prosecutions and Government Litigations, which was received on 18th May 2024, and he gave his opinion on 4th October 2024. It is also stated in the Affidavit that, he took charge as Law Officer (Senior) SC/ST Section on 4th September 2024. The present file was placed before him on 30th September 2024, and the Director of Prosecutions gave her opinion and the file was sent to Government on 08th October 2024 for final



decision, since it was fit case for preferring appeal. The Government in its letter No.HD:10030:HCP-2:2024 dated 11th February 2025 has also opined the same by authorising State Public Prosecutor, High Court of Karnataka to prefer appeal. It is further stated that the file was required to pass through so many Officers and Sections in the Department and hence there is a delay of 182 days from the date of receipt of copy of judgment and sending the entire records to the Principal Secretary, Home Department, Government of Karnataka, Bangalore. It is also stated that the said delay is not intentional, but for the bona fide reasons. Further it is stated that the Director of Prosecutions received a Note on 26th March 2026 from the Principal Secretary to the Government (PCAS), Home Department, explaining the delay for issuance of Government Order for filing appeal before the Court against the impugned judgment. It is stated that the proposal sent by the office of the Director of Prosecutions was received in the Section of Home



Department on 19th October 2024, and the file was submitted to the Section Officer on 5th November 2024. The Section Officer has forwarded the file for opinion of 1st Additional Solicitor and ex-officio Deputy Secretary on the same day. Further, it is stated that an average of 2000 criminal cases received every month at the Government level for consideration whether to prefer appeal or not. In addition to deciding whether to prefer an appeal before the Apex Court against the judgment/orders of High Court, Meetings of the SLP Review Committee are conducted twice a month under the Chairmanship of Additional Chief Secretary to Government, Home Department. Apart from this, the remuneration, proposals of Law Officers of the High Court and the Supreme Court are examined and sanctioned by the said office. In important and sensitive cases, the appointment of Special Public Prosecutors and their remuneration are also dealt in the said office. It is further stated that the 1st Additional Solicitor and ex-officio Deputy Secretary submitted the file on 4th February 2025,



with the opinion to prefer appeal before the High Court. The same was approved by the Principal Secretary to Government (PCAS), Home Department on 5th February 2025 and the file was sent to the Section on 7th February 2025 for further action. Later, draft order was submitted to the 1st Additional Solicitor and ex-officio Deputy Secretary for approval on 11th February 2025, which was approved and order was issued on 13th February 2025. It is stated that in the said process, there is a delay of 128 days from 9th October 2024 to 13th February 2025, i.e. the day on which the Government has issued the order to prefer the appeal. It is submitted that the delay is due to above administrative reasons and not intentional. Hence, it is prayed for condonation of delay in preferring the present appeal.

3. Memorandum of facts is also filed by Smt. B Pushpalata, Additional State Public Prosecutor, in which it is stated that State has filed the present appeal against the order of acquittal dated 04th April 2024 passed in SC



No.1205 of 2019 on the file of LXX Additional City Civil & Sessions Judge and Special Judge, Bengaluru, whereby accused No.1 was acquitted for the offences under Section 302 of Indian Penal Code, 1862 ("IPC" for short) and was convicted for offence punishable under Section 304 Part-II of Indian Penal Code though charged for offence punishable under Section 302 IPC, and further being aggrieved by the inadequate sentence imposed on accused 1 to 3 for the offences punishable under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, so also, the inadequate sentence imposed on accused 2 and 3 for the offence punishable under Section 212 of IPC. It is further stated that the papers in the above case was received by the office of the Advocate General on 11th February 2025, and after perusing the papers, the same were transmitted to the office of the State Public Prosecutor on 14th February 2025. Upon receipt of papers, and after examining the matter, the State Public Prosecutor assigned the case to



her for the purpose of drafting the appeal memorandum. Thereafter, she went through the entire records of the case, secured investigation papers, depositions of witnesses, documentary exhibits, and other relevant records from the Investigating Officer for the purpose of preparing the appeal. It is further submitted that during the said period she was also assigned to conduct matters before the Court whereunder the Court has directed her to file statement of objections for numerous bail applications and consequently, she was required to devote substantial time in drafting statement of objections and preparing of arguments for several criminal petitions listed on day-to-day basis before the court.

4. It is further stated that the High Court was closed for the scheduled summer and winter vacations during which regular Court functioning remain suspended, except for urgent matters. Owing to said Court vacations, and the consequential administrative limitations in processing and finalising the appeal papers, the preparation and filing of



the present appeal could not be completed within the usual time. The said period of Court vacations has also contributed to the delay in filing the appeal. It is further stated that immediately after reopening of the Court, during the first week of June, she was allotted to the criminal appeal Court to attend the matters. The Court has directed her to file statement of objections to all suspension of sentence applications as well as objections for petitions seeking condonation of delay and hence she was busy in drafting statement of objections. Further it is stated that she was also busy in reading day-to-day criminal appeal cases after completion of Court hours. It is further stated that in addition to the Court work entrusted to her, she was also required to attend several important official meetings and administrative engagements during the said period, which consumed considerable time and further contributed to the delay in filing the appeal. The delay of about 598 days in preferring the appeal has occurred on account of time



consumed in obtaining the certified copy of the impugned order, collecting and verifying relevant records and the processing of the matter at various Department levels for due examination and decision-making. The file was required to undergo necessary administrative scrutiny and obtain sanction from the competent Authority for filing the appeal, following which it was forwarded to the learned Government Counsel for drafting the presentation. It is stated that the delay is neither willful nor deliberate, but is attributable to bona fide and unavoidable administrative procedures inherent in official functioning. It is submitted that if the delay is not condoned, State would suffer prejudice and irreparable loss as it would be deprived of an opportunity to have the matter adjudicated on merits. Hence, it is prayed to condone the delay of 598 days in preferring the present appeal.

5. Before appreciation of facts on record, it is relevant to mention the 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 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."



6. In the case on hand, the appellant-State has not produced any document to substantiate the affidavit of Sri B.P. Manjunatha, Law Officer (Senior)(Criminal), SC/ST Opinion Section, Office of Director of Prosecutions & Government Litigations, Bengaluru as well as the Memorandum of facts filed by the Additional State Public Prosecutor. 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 not been satisfactorily explained by the appellant-State. Hence, considering the facts and circumstances of the case, as also, keeping in mind the decision of the Apex Court, we do not find any sufficient cause to condone the inordinate delay in preferring the present appeal. In the result, we proceed to pass the following:

ORDER

- i) **IA.I of 2026** filed under Section 5 of Limitation Act, 1963 seeking condonation



of delay of 598 days in preferring the
appeal is **dismissed**.

ii) Consequently, appeal is also **dismissed**.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE