



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1951 OF 2025 (A)

BETWEEN:

1. STATE OF KARNATAKA
GUDIBANDE POLICE STATION
REPTD BY THE STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-1

...APPELLANT

(BY SRI. RAHUL RAI K., HCGP)

AND:

1. SRI MALLESHA
S/O LATE KRUSHNAPPA
AGED ABOUT 24 YEARS
R/A NEAR SRI NARASIMHASWAMY TEMPLE,
MANDIKAL VILLAGE, CHIKKABALLAPURA

...RESPONDENT

(BY SRI. JAGADISH J.R., ADVOCATE)

CRL.A FILED U/S 378(1) AND (3) CR.PC (419 (1) AND (3) OF BNSS BY THE SPP FOR STATE PRAYING TO A. GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 25.10.2023 PASSED BY THE LEARNED III ADDL.DIST. AND SESSIONS JUDGE, CHIKKABALLAPURA IN S.C NO.102/2021 FOR THE O/P/US/ 323,324,504,307 OF IPC; B. SET ASIDE THE JUDGMENT AND ORDER OF ACQUITTAL DATED



25.10.2023 PASSED BY THE LEARNED III ADDL.DIST. AND SESSIONS JUDGE, CHIKKABALLAPURA IN S.C NO.102/2021 FOR THE O/P/U/S 323,324,504,307 OF IPC.C. CONVICT AND SENTENCE THE RESPONDENT ACCUSED FOR THE O/P/US/ 323,324,504,307 OF IPC; 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. This appeal is preferred by the State, challenging the judgment and order of acquittal dated 25th October, 2023 passed in SC No.102 of 2021 by the III Additional District and Sessions Judge, Chikkaballapura.

2. There is a delay of 606 days in preferring the Appeal. IA.I of 2025 is filed by the appellant-State seeking condonation of delay. The Application is supported by the affidavit of Sri B.P. Manjunatha, Law Officer (Senior) (Criminal), in-charge Deputy Director of Prosecutions (Litigation-1), Office of the Director of Prosecutions and Government Litigations, Bengaluru. In the affidavit, it is



stated that the special case was conducted by the Public Prosecutor who applied for certified copies of the judgment on 26th October, 2023 and received the same on 31st October, 2023 and sent his opinion on 27th November, 2023 to the Law officer (Senior), Bangalore Rural and the Law officer (Senior) sent his opinion on 19th December, 2023 to the Director of Prosecutions and Government Litigations. The Chief Officer has given his opinion on 02nd January, 2024 and the then Deputy Director of Prosecution (Litigation-1) gave her opinion on 04th January 2024, and the opinion file has been sent to Government on the same day for final decision, since all have opined that it is a fit case for preferring the appeal. The Government, vide No.HD:535:HCP-II:2024 dated 15th May 2024, has also authorised the Public Prosecutor to prefer the appeal. Since the file was required to pass through so many Officers and Sections and the Government Secretariat before passing an order to prefer the appeal, delay of 606 days is caused. The said delay is not intentional, but for



bona fide reasons. It is further stated that if the delay is not condoned, the State and victim will be put to substantial injustice and on the other hand, no harm or injustice will be caused to respondent. Hence, it is prayed to condone the delay and to allow the appeal.

3. 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 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."

4. It is also pertinent to mention the recent judgment in the case of STATE OF ODISHA v. MANAGING COMMITTEE OF NAMATARA GIRLS HIGH SCHOOL (2026 INSC 148), the Hon'ble Supreme Court has observed that the Law of Limitation is, no doubt, the same for a private citizen as for governmental authorities. Government, like any other litigant, must take responsibility for the acts or omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at



cross-purposes with it. It is also observed that it would, perhaps, be unfair and unrealistic to put Government and private parties on the same footing in all respects in such matters. Implicit in the very nature of governmental functioning is procedural delay incidental to the decision-making process.

5. In the case of SHIVAMMA (DEAD) BY LR v. KARNATAKA HOUSING BOARD AND OTHERS (2025 INSC 1104) the Hon'ble Supreme Court has stated that sufficient cause must be construed in a manner that advances substantial justice while preserving the discipline of limitation. 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. It is further held that, in cases involving the State and its agencies/instrumentalities, the Court can take note of the fact that sufficient time is taken in the decision-making process, but, no premium can be given for total



lethargy or utter negligence on the part of the officers of the State and/or its agencies/instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the ground of bar of limitation will cause injury to the public interest.

6. In the case on hand, the appellant has not produced any document to substantiate the affidavit of the Director of Prosecutions and Government Litigations. The Application is filed in a mechanical manner showing no bona fide efforts to present the appeal at the earliest. In the affidavit it is stated that opinion file was sent to the Government on 04th January, 2024 and on 15th May, 2024, the State Public Prosecutor was authorised to prefer the appeal. However, the appeal was filed on 22nd September, 2025. Delay in filing the appeal has 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 Hon'ble Apex Court, we do not find any



sufficient cause to condone the delay of 606 days in preferring the present appeal. Accordingly, IA.1 of 2025, filed under Section 5 of Limitation Act, 1963, seeking condonation of delay of 606 days in preferring the appeal is dismissed. As a result, the appeal is also dismissed.

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

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