

Rakesh Kumar vs. Dropta Devi

Cr.MP(M) No. 330 of 2026

20.08.2026 Present: None for the petitioner.

Despite repeated calls none has appeared. There was no representation on behalf of the petitioner on 02.07.2026 and 10.08.2026. Hence, there is no option but to proceed further.

The applicant has filed the present application for condonation of 283 days' delay in filing the revision. It has been asserted that applicant remained under the impression that his appeal was pending but this was proved to be incorrect. There was a communication gap between the applicant and his counsel and the applicant came to know about the dismissal of the appeal when he met the counsel in the market and enquired about the status of the appeal. He was trying to settle the matter by way of compromise but the compromise could not be finalized. Hence, the application.

The sole reason stated for seeking condonation of delay is that the applicant was not aware of the dismissal of the appeal. This is not the reason at all because it is not permissible for a litigant

to throw a blame upon the counsel to seek the condonation of the delay. It was laid down by the Hon'ble Supreme Court in *Rajneesh Kumar v. Ved Prakash*, 2024 SCC OnLine SC 3380 that a litigant is supposed to be present before the Court, and he cannot throw the blame upon the counsel to escape from the liability of his absence. It was observed:

“10. It appears that the entire blame has been thrown on the head of the advocate who was appearing for the petitioners in the trial court. We have noticed over a period of time a tendency on the part of the litigants to blame their lawyers for negligence and carelessness in attending the proceedings before the court. Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay, as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief.

11. In the aforesaid context, we may refer to a decision of this Court in the case of *Salil Dutta v. T.M. & M.C. Private Ltd.*, (1993) 2 SCC 185, wherein this Court observed as under: —

“8. *The advocate is the agent of the party. His acts and statements, made within the limits of authority given to him, are the acts and statements of the principal, i.e. the party who engages him. It is true that in certain situations, the court may, in the*

interest of justice, set aside a dismissal order or an ex parte decree notwithstanding the negligence and/or misdemeanour of the advocate where it finds that the client was an innocent litigant, but there is no such absolute rule that a party can disown its advocate at any time and seek relief. No such absolute immunity can be recognised. Such an absolute rule would make the working of the system extremely difficult. The observations made in *Rafiq* [(1981) 2 SCC 788: AIR 1981 SC 1400] must not be understood as an absolute proposition. As we have mentioned hereinabove, this was an ongoing suit posted for final hearing after a lapse of seven years from its institution. It was not a second appeal filed by a villager residing away from the city, where the court is located. The defendant is also not a rustic, ignorant villager but a private limited company with its head office at Calcutta itself and managed by educated businessmen who know where their interest lies. It is evident that when their applications were not disposed of before taking up the suit for final hearing, they felt piqued and refused to appear before the court. Maybe it was part of their delaying tactics, as alleged by the plaintiff. Maybe not. But one thing is clear: they chose not to cooperate with the court. Having adopted such a stand towards the court, the defendant has no right to ask its indulgence. Putting the entire blame upon the advocate and trying to make it out as if they were totally unaware of the nature or significance of the proceedings is a theory which cannot be accepted and ought not to have been accepted.” (Emphasis supplied)

Thus, the applicant cannot get the benefit of his negligence in not enquiring about the facts of his appeal.

Therefore, in view of the above, the application stands dismissed.

Application stands disposed of.

Cr.R (ST) No. 582 of 2026

Since, application for condonation has been dismissed, hence, the proposed revision is also disposed of so also the pending miscellaneous applications, if any.

(Rakesh Kainthla)
Judge

20th August, 2026
(Nikita)