

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MP(M) No. 2929 of 2025****Reserved on: 11.9.2026****Date of Decision: 22.9.2026.**

State of H.P.

.... Petitioner

Versus

Deepak Kumar

.... Respondent

*Coram**Hon'ble Mr Justice Rakesh Kainthla, Judge.**Whether approved for reporting?¹ No.*For the Applicant/Appellant : Mr Pawan Kumar Nadda,
Additional Advocate General.

For the Respondent : Ms Divya Rajta, Advocate.

Rakesh Kainthla, Judge

The applicant/State has filed the present application for condonation of delay in filing the appeal.

2. It has been asserted that a certified copy of the judgment was applied on 13.6.2025. It was attested on 29.7.2025 and was delivered on 30.7.2025. The case was examined by the concerned District Attorney/Public Prosecutor, Sirmaur and was sent to the District Magistrate, Sirmaur, who forwarded it to the Additional Chief Secretary (Home), Government of Himachal

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

Pradesh, for taking the decision. The case file was received in the Home Department on 3.10.2025. The case was referred to the Law Department for seeking opinion on 9.10.2025. It was received back on 23.10.2025 and was submitted to the competent authority on 28.10.2025 for consideration and taking the decision. The delay occurred because various authorities had to be consulted. Hence, the application.

3. The application is opposed by filing a reply taking preliminary objections regarding lack of maintainability and the absence of sufficient cause. It was asserted that the matter was decided on 13.6.2025 and the parties have settled in peace. The explanation furnished by the State is not satisfactory as each day's delay has not been explained. Therefore, it was prayed that the present application be dismissed.

4. A rejoinder asserting that the certified copy was received on 30.7.2025, and that the case file remained in the office of the learned District Attorney till 11.9.2025. It was forwarded to the District Magistrate on 12.9.2025, who forwarded it to the Additional Chief Secretary (Home) on 19.9.2025. The case file was received in the Home Department on 3.10.2025 and was referred to the Law

Department on 9.10.2025. The opinion was received on 23.10.2025, and the matter was placed before the competent authority on 28.10.2025. The delay occurred because various offices had to be consulted. Therefore, it was prayed that the present application be allowed.

5. I have heard Mr Pawan Kumar Nadda, learned Additional Advocate General for the applicant/State, and Mr Divya Rajta, learned Counsel for the respondent/accused.

6. Mr. Pawan Kumar Nadda, learned Additional Advocate General for the applicant/State, submitted that the delay occurred because various authorities had to be consulted before filing the appeal. The State should be provided a leeway while condoning the delay. Therefore, he prayed that the present application be allowed and the delay in filing the appeal be condoned.

7. Mr Divya Rajta, learned Counsel for the respondent/accused, submitted that there is no explanation for the delay. Therefore, he prayed that the present application be dismissed.

8. I have given a considerable thought to the submissions made at the bar and have gone through the records carefully.

9. The rejoinder filed by the State shows that the certified copy was received on 30.7.2025 and the case file remained in the office of the District Attorney till 11.9.2025. There is no explanation for keeping the file in the office of the District Attorney for more than one month. The case file was forwarded to the Additional Chief Secretary on 19.9.2025, but was received on 3.10.2025 and was diarised on 6.10.2025. Again, there is no explanation as to why there should have been such a delay in transmitting the file from the office of the District Magistrate to the office of the Additional Chief Secretary (Home). Therefore, there is a force in the submission of Ms Divya Rajta, learned Counsel for the respondent/accused, that the explanation provided by the applicant is not proper. In similar circumstances, the Hon'ble Supreme Court held in *Postmaster General v. Living Media India Ltd.*, (2012) 3 SCC 563: 2012 SCC OnLine SC 1234 that when no explanation was provided for not applying the certified copy within the prescribed period, there was a delay at every stage and no explanation was provided for the delay, the delay cannot be condoned. It was observed at page 573:-

26. In spite of affording another opportunity to file a better affidavit by placing adequate material, neither the Department nor the person-in-charge has filed any explanation for not applying the certified copy within the prescribed period. The other dates mentioned in the

affidavit, which we have already extracted, clearly show that there was delay at every stage, and except mentioning the dates of receipt of the file and the decision taken, there is no explanation as to why such delay had occurred. Though it was stated by the Department that the delay was due to unavoidable circumstances and genuine difficulties, the fact remains that from day one the Department or the person/persons concerned have not evinced diligence in prosecuting the matter to this Court by taking appropriate steps.

27. 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 of competent persons familiar with court proceedings. In the absence of a 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.

28. 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 bona fides, 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.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have a reasonable and acceptable explanation for the delay and there was bona fide 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 red tape 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 the government departments. The law shelters everyone under the same light and should not be swerved for the benefit of a few.

10. In the present case also, the application does not provide any explanation for the delay but only mentions the dates on which the file was received by various functionaries, which is not sufficient. Therefore, the delay cannot be condoned.

11. In view of the above, the present application fails and is dismissed.

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12. Since the application for condonation of delay has been dismissed, the present proposed appeal does not survive and is disposed of.

(Rakesh Kainthla)
Judge

22nd September, 2026
(Chander)