

**\* IN THE HIGH COURT OF DELHI AT NEW DELHI**

***Date of Decision: February 04, 2015***

+ CrI.M.C.No.1860/2012

SAROJ DEVI

..... Petitioner

Through: Mr. Arati Mahajan Shedha,  
Advocate

versus

STATE & ORS.

..... RespondentS

Through: Mr. Vinod Diwakar, Additional  
Public Prosecutor for respondent  
State

**CORAM:**

**HON'BLE MR. JUSTICE SUNIL GAUR**

**JUDGMENT**  
**(ORAL)**

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Petitioner is the complainant, at whose instance FIR No.165/2002 for the offences under Sections 498A/406/34 of the IPC was registered but the charge-sheet in the aforesaid FIR case was filed in January, 2008 along with application for condonation of delay. The reason to seek condonation of delay in filing the charge-sheet put-forth was misplacement of file and trial court as well as Revisional Court has noted that the limitation for filing of the charge-sheet for the offence in question came to an end in March, 2005 and the application for condonation of delay has been filed in a routine manner without any plausible explanation. While refusing to condone the delay, cognizance of the

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offence in question is not taken by the trial court.

At the hearing, learned counsel for petitioner-complainant submitted that there was no lapse on the part of petitioner-complainant and the negligence was on the part of respondent-State in filing the charge-sheet in time and the complainant be not made to suffer. It was pointed out that Section 473 of the Code of Criminal Procedure provides for extension of period of limitation and the courts below ought to have exercised their jurisdiction to condone the delay. During the course of hearing, it was submitted by learned counsel for petitioner that there is no limitation for the offence under Section 406 of the IPC, as it is a continuing offence and so refusal to take cognizance by the trial court is bad in law. Thus, quashing of the impugned order is sought by petitioner.

Upon hearing and on perusal of the impugned orders and the material on record, I find that the courts below have taken note of the fact that the misplacement of the file was in September, 2007 i.e. much after the period of limitation which stood expired in March, 2005. Jurisdiction under Section 473 of the Code of Criminal Procedure is not to be routinely exercised and unless a plausible and cogent explanation for the delay is forthcoming, delay cannot be condoned.

So far as the allegations of cruelty etc. are concerned, it was brought to the notice of this Court by petitioner's counsel that presently petitioner is residing with respondent-husband. Meaning thereby, petitioner has condoned the acts of cruelty. In order to see whether cognizance for the offence under Section 406 of the IPC can be taken or not, this Court has perused the charge-sheet of this case and it finds that there are no clear cut allegations of entrustment of dowry articles and no

dates on which cruelty was meted out is forthcoming. Even the contents of the FIR in question as well as investigation conducted are lacking in material particulars. Therefore, cognizance for the offence under Section 406 of the IPC cannot be taken.

In view of the aforesaid, this Court finds no substance in this petition and it is accordingly dismissed.

**(SUNIL GAUR)**  
**JUDGE**

**FEBRUARY 04, 2015**

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