

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

% *Judgment delivered on: 15th May, 2015*

+ **CRL.M.C. 5306/2014**

MANJIT SINGH BHATI Petitioner
Through Mr.Aditya Sharma, Adv.

versus

STATE (NCT OF DELHI) & ANR Respondents
Through Ms.Jasbir Kaur, APP for the State
along with SI Dinesh Kumar, PS
Jyoti Nagar, in person.
Mr.Pramod Kumar, Adv. with
Mr.Arvind Kumar, Adv. for R-2.

+ **CRL.M.C. 5284/2014**

BIJENDER SINGH BHATI Petitioner
Through Mr.Aditya Sharma, Adv.

versus

STATE (NCT OF DELHI) & ANR Respondents
Through Ms.Jasbir Kaur, APP for the State
along with SI Dinesh Kumar, PS
Jyoti Nagar, in person.
Mr.Pramod Kumar, Adv. with
Mr.Arvind Kumar, Adv. for R-2.

+ **CRL.M.C. 5296/2014**

SANTOSH SINGH BHATI Petitioner
Through Mr.Aditya Sharma, Adv.

versus

STATE (NCT OF DELHI) & ANR Respondents
Through Ms.Jasbir Kaur, APP for the State
along with SI Dinesh Kumar, PS
Jyoti Nagar, in person.
Mr.Pramod Kumar, Adv. with
Mr.Arvind Kumar, Adv. for R-2.

CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J. (ORAL)

1. By this order, I propose to decide the abovementioned three petitions, filed by Manjit Singh Bhati, Bijender Singh Bhati and Santosh Singh Bhati. Bijender Singh Bhati, who is the petitioner in Crl. M.C. No.5284/2014, is the husband of Mrs.Chetna Bhati (respondent No.2 in the said petition). Santosh Singh Bhati is the mother of Manjit Singh Bhati and Bijender Singh Bhati.
2. Brief facts of the case are that the marriage between Bijender Singh Bhati and Chetna Bhati was solemnized on 26th November, 2004. After the period of 18 months, i.e. on 2nd May, 2006, respondent No.2 left the matrimonial home and started living separately. The complaint was filed by respondent No.2 on 11th March, 2011, i.e. about five years after they separated. On the basis of the said complaint, the FIR No.407/2011 was registered against the petitioners on 13th October, 2011 at Police Station Jyoti Nagar, Delhi. The charges were framed against the petitioners on 25th January, 2014.
3. The case of the petitioner Bijender Singh Bhati who is working as Deputy Commander in Central Reserve Police Force and is

posted in Chhattisgarh came to Delhi on the night of 12th May, 2014. Undisputedly he was on duty in Chhattisgarh from third week of March, 2014 till 12th May, 2014. He contacted his counsel who informed him about the framing of charge against him and his brother and mother. The petitioners decided to file the revision petitions which were drafted by the counsel. As there was a delay of 20 days in filing the said revision petitions, the same were dismissed on the grounds of delay by dismissing the application under Section 5 of the Limitation Act by a common order dated 9th July, 2014 which has been challenged before this Court by way of the present petitions.

4. I have heard the learned counsel for the parties. Learned counsel for the petitioners has referred the decision of the Supreme Court in the case of **Ramlal, Motilal and Chhotelal v. Rewa Coalfields Ltd.**, reported in AIR 1962 SC 361, para 8 of the same reads as under:-

“8. Now, what do the words “within such period” denote? It is possible that the expression “within such period” may sometimes mean during such period. But the question is: Does the context in which the expression occurs in Section 5 justify the said interpretation? If the Limitation Act or any other appropriate statute prescribes different periods of limitation either for appeals or applications to which Section 5 applies that normally means that liberty is given to the party intending to make the appeal or to file an application to act within the period prescribed in that behalf. It would not be reasonable to require a party to take the necessary action on the very first day after the cause of action accrues. In view of the period of limitation prescribed the party would be entitled to take its time and to file the appeal on any day during the said period; and so prima facie it appears

unreasonable that when delay has been made by the party in filing the appeal it should be called upon to explain its conduct during the whole of the period of limitation prescribed. In our opinion, it would be immaterial and even irrelevant to invoke general considerations of diligence of parties in construing the words of Section 5. The context seems to suggest that “within such period” means within the period which ends with the last day of limitation prescribed. In other words, in all cases falling under Section 5 what the party has to show is why he did not file an appeal on the last day of limitation prescribed. That may inevitably mean that the party will have to show sufficient cause not only for not filing the appeal on the last day but to explain the delay made thereafter day by day. In other words, in showing sufficient cause for condoning the delay the party may be called upon to explain for the whole of the delay covered by the period between the last day prescribed for filing the appeal and the day on which the appeal is filed. To hold that the expression “within such period” means during such period would, in our opinion, be repugnant in the context. We would accordingly hold that the learned Judicial Commissioner was in error in taking the view that the failure of the appellant to account for its non-diligence during the whole of the period of limitation prescribed for the appeal necessarily disqualified it from praying for the condonation of delay, even though the delay in question was only for one day; and that too was caused by the party's illness.”

5. I have also gone through the applications filed by the petitioners under Section 5 of the Limitation Act as well as the grounds stated in the said applications. I am of the considered view that there are valid and sufficient reasons given in the said application for condonation of delay. Thus, the delay of 20 days is condoned. The revision petitions are restored to their original position by allowing these three

petitions. The impugned order is set-aside. The Additional Sessions Judge to decide the revision petitions as per their own merits.

6. The parties to appear before the Additional Sessions Judge concerned on 8th July, 2015.

7. Copies of this order be given *dasti* to both the parties. A copy of this order be sent to the trial Court concerned.

(MANMOHAN SINGH)
JUDGE

MAY 15, 2015