



\$~72

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

+ **CRL.REV.P. 1162/2024 & CRL.M.A. 28617/2024,**
CRL.M.A. 28618/2024

SUNIL KUMAR

.....Petitioner

Through: Mr.Partap Singh and
Mr.Dishant Kaushik, Advocates

versus

STATE THROUGH SHO DELHI CANTT & ANR.

.....Respondents

Through: Mr.Sunil Kumar Gautam,
APP for the State with SI Archana, PS
Delhi Cantt.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **23.09.2024**

Crl.M.A. Nos. 28619/2024 and 28620/2024

1. The present applications under Section 5 of the Limitation Act have been filed by the petitioner seeking condonation of delay of 56 days in filing the present revision petition.
2. The petitioner has preferred the present petition impugning the order dated 20.11.2023 (hereafter '**the impugned order**') passed by the learned Additional Sessions Judge, Patiala House Courts, New Delhi in SC No. 192/2022.
3. Briefly stated, it is the case of the prosecution that in November, 2019, the accused and the prosecutrix came into contact while preparing for competitive exams at Jaipur. It is alleged by the prosecutrix that the accused established forceful sexual relationship with her on the pretext of marriage.
4. Concededly, there has been an inordinate delay in filing the present petition.
5. Notably, the impugned order was passed on 20.11.2023,



however the present petition was filed on 06.07.2024. The delay in filing, is therefore, about 148 days, which is significantly more than what has been stated by the petitioner.

6. The learned counsel for the petitioner submits that the petitioner had gone to Jodhpur after framing of charges and came back in the month of April when the cross-examination of the witnesses started. He further submits that the petitioner, at that stage, consulted another counsel who advised him to file a petition challenging the order on charge. Accordingly, the present counsel was instructed. Consequently, certified copy was applied and that the delay is not intentional.

7. I have gone through the impugned order which was passed way back on 20.11.2023.

8. Merely the change of advice by an advocate cannot be reason seeking condonation of delay. Courts have consistently held that while there is some flexibility in condoning the delay in the interest of justice, such extensions cannot be granted casually or mechanically. The petitioner seeking condonation of delay must provide a plausible and satisfactory explanation, demonstrating that the delay was beyond his control and that there was no deliberate negligence or inaction on his part. A mere change in legal advice or Counsel does not constitute sufficient grounds for condoning delay. Litigants must act with diligence and the Courts cannot be lenient where there is a clear lack of *bona fide* to pursue legal remedies.

9. Concededly, the examination of witnesses has already started and the complainant has already been examined.

10. In view of the above facts and circumstances, this Court does not consider it apposite to entertain the present application seeking condonation of delay in filing the present petition.



11. Accordingly, the present application as well as the Crl. Revision Petition CRL.REV.P.(MAT.) 39/2024 stand dismissed on the ground of delay.

12. Pending applications, if any, also stand dismissed.

13. The petitioner is at liberty to take all arguments before the learned Trial Court.

AMIT MAHAJAN, J

SEPTEMBER 23, 2024

‘SV’