



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4863 OF 2024
IN
CRIMINAL REVISION APPLICATION STAMP NO. 13189 OF 2024

Rajvardhan Madan Gavai,
Age : 37 years, Occupation : Service,
R/o. Madan Dagduba Gavai, Sambhaji Nagar,
Dongaon Road, Mehkar, Taluka Mehkar,
District Buldhana. ... Applicant.

Versus

1. Aruna @ Dipali Rajvardhan Gavai,
Age : 36 years, Occupation Household,
2. Pranjal Rajvardhan Gavai
Age : 12 years, Occupation Education,
3. Abhinil (Ladu) Rajvardhan Gavai
Age : 12 years, Occupation Education,
Respondent Nos. 2 and 3 minors U/G.
of Respondent No.1 i.e. real mother. ... Respondents

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Mr. S. R. Bagal, Advocate h/f Mr. B. N. Gadegaonkar, Advocate for
the Applicant.

Mr. P. P. More, Advocate for Respondent Nos. 1 to 3.
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 11.03.2025

Pronounced on : 17.03.2025

ORDER :

1. This is an application for condonation of delay of 226 days
caused in filing criminal revision application.

2. Learned counsel for the applicant pointed out that applicant and respondent no.1 are husband and wife and respondent nos. 2 and 3 are their children. That, after marriage, there was marital discord and as they separated, respondent wife filed petition under Section 125 of Cr.P.C. before learned Family Court bearing Petition No.E-209/2022 seeking maintenance. That, learned Family Court partly allowed the said petition directing applicant to pay Rs.15,000/- per month to respondent no.1 wife, Rs.10,000/- to respondent no.2 daughter and Rs.5,000/- per month to respondent no.3 son. That, in fact, applicant has already lost his job. He is suffering from acute pancreatitis, acute kidney injury/failure and UTI, as a consequence of which, he was required to be hospitalized and was further referred to higher center. Therefore, he could not challenge the order of learned Family Court within stipulated period and delay of 226 days has been caused. However, he has made a statement application memo that medical papers and discharge cards are presently misplaced and he seeks leave to produce the same after seeking it from concerned hospital.

3. Learned counsel therefore submits that, because of above ailment and time spent in seeking legal opinion, delay has occurred in filing criminal revision application. That, immediately after receipt of

copy of judgment, revision has been filed. For above reasons, as he has hopes of succeeding in revision, he seeks condonation of delay.

4. Learned counsel for the respondents has strongly objected refuting each and every contention raised herein and asserting false, got up case being fabricated for getting huge delay, which is not properly explained, condoned. Submissions of ailment and hospitalization are also refuted. According to learned counsel, present application is filed with ulterior motive to delay the payments of maintenance. He has emphasized that huge amount by way of arrears has been accumulated as applicant has deliberately avoided to make payments. That apart, respondent wife is having her own health issues and her small children are also to be brought up and as such, they are in need of money. However, learned counsel for the respondents pointed out that if at all applicant is ready to deposit at least 50% of the arrears, he has no objection for condonation of delay.

5. Learned counsel for the applicant, in answer to above and in support of his contention that applicant had lost his job because of false complaint, has tendered across the bar Government Resolution dated 04.03.2025 whereby his services have been recently restored.

Learned counsel for the applicant therefore submits that, applicant is not in a position to deposit any amount as on today at least.

6. As regards the aspect of arrears and capacity of applicant to deposit the amount are concerned, the same would be gone into at the time of hearing the criminal revision application. Here, considering the statement on oath about applicant suffering from ailments; was hospitalized and he having lost job, delay so caused is required to be condoned. When parties would contest in revision application, their respective cases about correctness of the impugned order and the aspect of arrears can be gone into.

7. During submissions, learned counsel for the applicant sought stay to the proceedings before the trial court. However, on going through the prayer clauses raised in the application, this Court did not come across any specific prayer for stay so as to grant the same. Therefore, prayer seeking condonation of delay is only dealt with. In view of the above discussion, following order is passed :

ORDER

I. The application is allowed in terms of prayer clause (B). Delay stands condoned. Registry to register the criminal revision application.

II. The application is accordingly disposed off.

[ABHAY S. WAGHWASE, J.]

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