



Crl.R.C.No.176 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.02.2025

Coram:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

Crl.R.C.No.176 of 2025

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1.Udayakumar
2.Vijayalakshmi
3.Vinothkumar

.. Petitioners

Vs.

State Represented by
District Crime Branch,
Anti-Land Grabbing Special Wing,
Vellore District.
(In Crime No.12 of 2017)

.. Respondent

Criminal Revision Case filed under Section 438 read with Section 442 of the BNSS, 2023, to set aside the order passed by the learned Principal Sessions Judge, Vellore in Crl.M.P.No.2019 of 2024 in Crl.A.Sr.No.6058 of 2018 vide order dated 25.11.2024.

For petitioners : Mr.M.R.Thangavel

For respondent: Mr.S.Sugenran
Additional Public Prosecutor



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ORDER

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The revision is challenged by the petitioner against the order passed by the learned Principal Sessions Judge, Vellore, in Crl.M.P.No.2019 of 2024 in Crl.A.Sr.No.6058 of 2018, vide order dated 25.11.2024, whereby the learned appellate Judge condoned the delay of 227 days in the appeal preferred by the State Rep. by the Public Prosecutor, against the order of acquittal.

2. The respondent police registered the case against the petitioners for offences under Sections 120B, 420, 423, 465, and 468 of the IPC, and Section 82 of the Registration Act, 1908. The learned Magistrate, after trial, vide judgment dated 17.10.2023, passed an order of acquittal in C.C.No.66 of 2019. Challenging the same, initially, the Inspector of Police, District Crime Branch, Anti-Land Grabbing Special Wing, Vellore, filed an appeal with a delay of 39 days. The learned appellate Judge, however, found that the appeal was filed by the investigating officer, who had no locus standi to directly file the appeal, and dismissed the appeal at the SR stage itself on 31.07.2024. The learned appellate Judge further observed that if the State intends to file an appeal against the order of acquittal, it must obtain the consent of the District Magistrate, i.e., the District Collector, and the Public Prosecutor alone has the authority to file the appeal against the acquittal. Subsequently, the respondent/Public Prosecutor filed another appeal. In the meanwhile, a delay of 227 days had occurred, and the learned appellate Judge condoned this delay and directed the criminal appeal to be numbered, by order dated 25.11.2024, in Crl.M.P.No.2019 of 2024 in S.R. No. 6058 of 2024.



Challenging the said order, the petitioners have approached this Court by way of this revision.

3. The learned counsel for the petitioner would submit that the respondent has not provided any reasons for the delay, and it is essential that each and every delay be explained. They have not stated when they applied for sanction from the District Magistrate, nor when it was obtained or filed. Furthermore, he would submit that on the same day that the earlier application was dismissed, the respondent filed the new one, yet there is no specific reason assigned for the delay. The learned counsel would further submit that the State, like any other litigant, is bound by law and cannot take undue advantage. Just because the respondent is the State, the delay cannot be condoned. Therefore, the order passed by the learned Judge is liable to be set aside. In support of his contention, the learned counsel has cited the judgment of the Apex Court in ***Postmaster General and Others v. Living Media India Limited and Another*** [(2012) 3 SCC 563].

4. Per contra, the learned Additional Public Prosecutor would submit that by mistake, the Investigating Officer had earlier filed the appeal against the acquittal with a delay of 39 days. While the application was pending, it was realized that the appeal against the acquittal order could not be filed by the Investigating Officer and had to be filed by the Public Prosecutor, with proper authorization from the District Collector/District Magistrate. However, the learned appellate Judge dismissed the petition on the grounds of technicality and did not address the merits of the case regarding whether the reason assigned by the State to condone the delay was acceptable. Therefore, subsequently, they filed a petition after



obtaining the sanction/authorization from the District Magistrate/District Collector to file the application by the Public Prosecutor. In the meanwhile, a delay of 227 days had occurred.

The learned appellate Judge rightly considered the matter and condoned the delay, and hence, there is no merit in the revision. Therefore, the learned Additional Public Prosecutor prays for the dismissal of the Criminal Revision.

5. Heard the learned counsel on either side and perused the materials available on record.

6. Upon perusing the materials available on record and hearing the learned counsel on both sides, this Court finds that the initial application was filed with a delay of 39 days, which was dismissed on technical grounds. Subsequently, a fresh application was filed after rectifying the procedural errors. The learned appellate Judge, after considering the matter thoroughly, condoned the delay of 227 days, as the respondent had to obtain proper authorization from the District Magistrate/District Collector before filing the appeal. In the considered opinion of this Court, the order passed by the learned Judge does not call for any interference, as the learned appellate Judge has applied the correct legal procedure, and the delay was not caused by any malafide intention but by the necessary rectification of a procedural error. Additionally, the nature of the delay in this case does not warrant the application of rigid technicalities, particularly in criminal matters where the substantive interests of justice must be prioritized.



7. There is no quarrel over the proposition laid down in ***Postmaster General and Others v. Living Media India Limited and Another*** [supra], referred by the learned counsel for the petitioner, wherein the Hon'ble Supreme Court held against the State for filing an appeal with excessive delay. However, it is distinguishable on facts. In that case, the delay was extensive, and the Hon'ble Supreme Court found that there were no valid grounds to condone it. However, in the present case, the delay occurred due to the procedural requirement of obtaining authorization from the District Magistrate, which is a crucial step to ensure that the appeal was filed in compliance with the law. The initial delay was relatively minor and was caused by the procedural rectification, not by any lack of diligence or bad faith on the part of the respondent. Therefore, the judgment in ***Postmaster General*** does not apply to this case, as the delay here was not of the same nature and was caused by a genuine procedural mistake. In the interest of justice, and to meet the ends of substantial justice, this Court finds that hyper-technicality should not be applied in criminal cases.

8. In view of the above findings, the revision is dismissed. However, considering the nature of the offence, the learned appellate Judge is directed to hear the appeal and dispose of it on merits in accordance with law, within a period of two months from the date of receipt of a copy of this order.

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2. The District Crime Branch,
Anti-Land Grabbing Special Wing,
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