

CRL.M.P(MD)No.12742 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE **SHAMIM AHMED**

CRL.M.P(MD)No.12742 of 2025
in
CRL.R.C(MD)SR.No.48012 of 2025

Mohammed Yasar Arafath,
S/o.Mohammed Abdul Kader,
No.75/A2, Cholukkar Street,
Kayalpatnam, Tiruchendur,
Thoothukudi District.

...Petitioner

Vs

1.The State of Tamilnadu,
represented by the Sub Inspector of Police,
City Crime Branch,
Tirunelveli District.
(Cr.No.13 of 2022)

2.K.Balamurugan
S/o.Kumarasamy,
56/1, Bhagavathiar Street,
Melakarungulam,
Tirunelveli District.

...Respondents

PRAYER: Petition is filed under Section 5 of the Limitation Act, to condone the delay of 488 days in filing the above Criminal Revision as against the order dated 28.11.2023 made in Crl.M.P.No.21176 of 2023 on the file of the learned Judicial Magistrate No.1, Tirunelveli.



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For Petitioner : Mr.T.Antony Arulraj
For R1 : Mr.M.Karunanithi
Government Advocate (Crl.side)

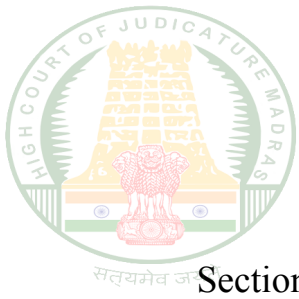
ORDER

Heard Mr.T.Anto Arulraj, learned Counsel appearing for the petitioner and Mr.M.Karunanithi, learned Government Advocate (Criminal Side), who accepts notice on behalf of the 1st respondent.

2.The present Criminal Miscellaneous Petition has been filed under Section 5 of the Limitation Act, to condone the delay of 488 days in filing the above Criminal Revision Case.

3. The facts of case, in a nutshell, led to filing of this Petition and necessary for disposal of same, are as follows:-

a)The petitioner let out the property belonging to him to the second respondent, who was running a real estate business in the name and style of “V.V.Reals”. The de-facto complainant had filed a complaint before the first respondent Police against the second respondent and on the basis of the same, an FIR in Cr.No.13 of 2022 for the offences punishable under



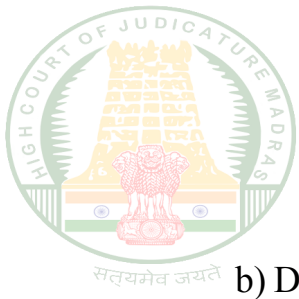
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Sections 406, 418 and 420 IPC came to be registered. After completion of investigation, the respondent Police had filed a final report before the Judicial Magistrate Court No.1, Tirunelveli, in C.C.No.924 of 2023. In the meantime, the respondent Police seized the properties of the petitioner in connection with the pending criminal case in C.C.No.924 of 2023. Hence, the petitioner has moved an application in Crl.M.P.No.21176 of 2023 before the Judicial Magistrate Court No.1, Tirunelveli, to release the seized properties. The learned Judicial Magistrate No.1, Tirunelveli, by order, dated 28.11.2023, had passed the following order:

“4) The petition perused. Both side inquiry heard. On perusal of the case bundle this is a not party to this case this petitioner is a owner of the shop of the accused. the said shop was seized by the respondent police as part of the investigation process in connection with cr.no.13 of 2022.now this petitioner being the owner of the said shop praying to return possession of the scheduled property shop along with the key. This petitioner also has no objection for returning the belonging of the tenant from the shop exist before the petitioner and the accused. it is true that the petitioner is owner of the scheduled property, owner and tenant relationship exists between the petitioner and the tenant. But this petitioner can't am claim possession of immovable property at criminal proceedings. This can very well approach civil forum and to take legal action for a eviction of tenant.

5) Hence. With the direction this petition is Dismissed. No cost.



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b) Due to the financial crisis and due to illness, the petitioner was not in a position to prefer the present Criminal Revision Petition within the stipulated time, resulting in a delay of 488 days. Hence, the impugned order, dated 28.11.2023 in Crl.M.P.No.21176 of 2023 passed by the learned Judicial Magistrate No.1, Tirunelveli, is under challenge in the present Criminal Revision Petition along with the delay condonation petition.

4.The learned Counsel for the petitioner submits that the delay of 488 days in filing the Criminal Revision Petition is neither deliberate nor wilfull. Hence, he prays that this Court may be pleased to allow the petition by condoning the delay in the interest of justice.

5.Mr.M.Karunanithi, learned Government Advocate (Criminal Side) appearing for the first respondent, submits that the Criminal Miscellaneous Petition filed under Section 5 of the Limitation Act is, *prima facie*, not legally maintainable. He further contends that the miscellaneous petition seeking condonation of the inordinate delay of 488 days in filing the Criminal Revision Petition is liable to be dismissed.



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6.I have given my careful and anxious consideration to the contentions put forward by the learned Counsel on either side and also perused the entire materials available on record.

7. The matter comes up for consideration of application under Section 5 of the Limitation Act with a prayer for condoning the delay of 488 days in filing the Criminal Revision Petition.

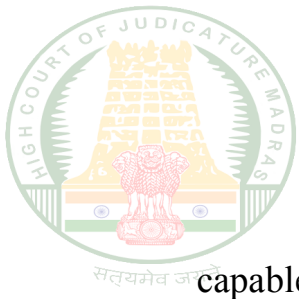
8. The standard period of limitation for filing a Criminal Revision Petition under Section 397 of the Code of Criminal Procedure, 1973, is 90 days from the date of the impugned order, as stipulated under Article 131 of the Limitation Act, 1963. In the present case, the Criminal Revision Petition has been filed with a delay of 488 days. However, under Section 5 of the Limitation Act, 1963, the Court is empowered to condone the delay, if the petitioner is able to demonstrate "sufficient cause" for not preferring the revision within the prescribed limitation period. The explanation offered must be reasonable, *bona fide*, and not indicative of negligence or inaction.



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9. After perusal of the records, this Court finds that there is neither a satisfactory explanation nor any reasons for the inordinate delay of 488 days in filing the present Criminal Revision Petition, seeking condonation of delay. Hence, the petition is time-barred and cannot be sustained on the ground of laches.

10. The expression “sufficient cause“ and satisfactory explanation has been held to receive a liberal construction so as to advance substantial justice and generally a delay in preferring a petition may be condoned in the interest of justice, where no gross negligence or deliberate inaction or lack of *bona fide* is imputable to parties, seeking condonation of delay. In the case of ***Collector, Land Acquisition Vs. Katiji, reported in 1987 (2) SCC 107***, the Honourable Supreme Court said that when substantial justice and technical considerations are taken against each other, cause of substantial justice deserves to be preferred, for, the other side cannot claim to have vested right in injustice being done because of a non deliberate delay. The Court further said that judiciary is respected not on account of its power to legalise injustice on technical grounds, but because it is



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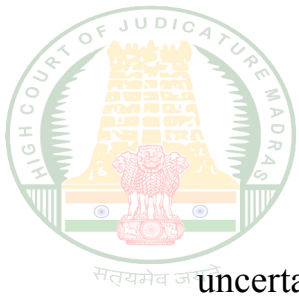
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capable of removing injustice and is expected to do so.

11. In the case of ***P.K. Ramachandran Vs. State of Kerala, reported in AIR 1998 SC 2276***, the Honourable Supreme Court was pleased to observe as under:-

“Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds.”

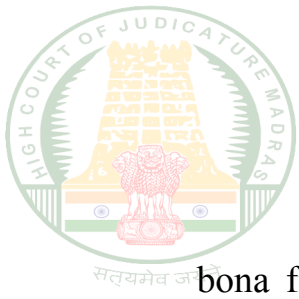
12. The Rules of limitation are not meant to destroy rights of parties. They virtually take away the remedy. They are meant with the objective that parties should not resort to dilatory tactics and sleep over their rights. They must seek remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The statute relating to limitation determines a life span for such legal remedy for redress of the legal injury, one has suffered. Time is precious and the wasted time would never revisit. During efflux of time, newer causes would come up, necessitating newer persons to seek legal remedy by approaching the Courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending



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uncertainty and consequential anarchy. The statute providing limitation is founded on public policy. It is enshrined in the maxim *Interest reipublicae up sit finis litium* (it is for the general welfare that a period be put to litigation). It is for this reason that when an action becomes barred by time, the Court should be slow to ignore delay for the reason that once limitation expires, other party matures his rights on the subject with attainment of finality. Though it cannot be doubted that refusal to condone delay would result in foreclosing the suiter from putting forth his cause but simultaneously the party on the other hand is also entitled to sit and feel carefree after a particular length of time, getting relieved from persistent and continued litigation.

13. There is no presumption that delay in approaching the Court is always deliberate. No person gains from deliberate delaying a matter by not resorting to take appropriate legal remedy within time but then the words “sufficient cause“ show that delay, if any, occurred, should not be deliberate, negligent and due to casual approach of concerned litigant, but, it should be bona fide, and, for the reasons beyond his control, and, in any case should not lack bona fide. If the explanation does not smack of lack of



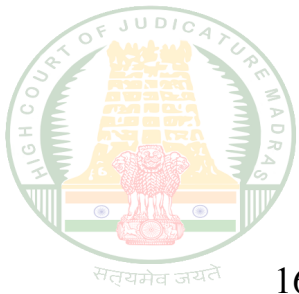
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bona fide, the Court should show due consideration to the litigant, but, when there is apparent casual approach on the part of litigant, the approach of Court is also bound to change. Lapse on the part of litigant in approaching Court within time is understandable but a total inaction for long period of delay without any explanation whatsoever and that too in the absence of showing any sincere attempt on the part of litigant, would add to his negligence, and would be relevant factor going against him.

14. I need not to burden this judgment with a catena of decisions explaining and laying down as to what should be the approach of Court on construing “sufficient cause“ and it would be suffice to refer a very few of them besides those already referred.

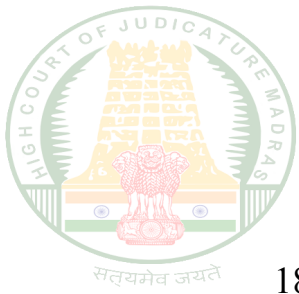
15. In the case of **Shakuntala Devi Jain Vs. Kuntal Kumari, reported, AIR 1969 SC 575**, a three Judge Bench of the Court said that unless want of bona fide of such inaction or negligence as would deprive a party of the protection, the application must not be thrown out or any delay cannot be refused to be condoned.



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16. The **Privy Council, in the case of Brij Indar Singh Vs. Kanshi Ram reported in ILR (1918) 45 Cal 94**, observed that true guide for a court to exercise the discretion is whether the appellant acted with reasonable diligence in prosecuting the appeal. This principle still holds good inasmuch as the aforesaid decision of Privy Council as repeatedly been referred to, and, recently in **State of Nagaland Vs. Lipok AO and others, AIR 2005 SC 2191**.

17. In the case of **Vedabai @ Vijayanatabai Baburao Vs. Shantaram Baburao Patil and others, reported in JT 2001 (5) SC 608**, the Court said that under Section 5 of the Act, 1963, it should adopt a pragmatic approach. A distinction must be made between a case where the delay is inordinate and a case where the delay is of a few days. In the former case consideration of prejudice to the other side will be a relevant factor so the case calls for a more cautious approach but in the latter case no such consideration may arise and such a case deserves a liberal approach. No hard and fast rule can be laid down in this regard and the basic guiding factor is advancement of substantial justice.



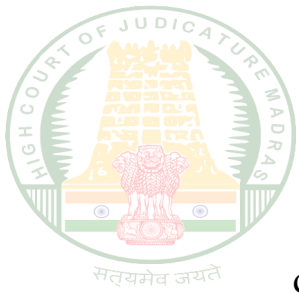
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18. In the case of **Pundlik Jalam Patil (dead) by LRS. Vs. Executive Engineer, Jalgaon Medium Project and Another**, reported in (2008) 17 SCC 448, in para 17 of the judgment, the Court said :-

“...The evidence on record suggests neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and state claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and “do not slumber over their rights.”

19. In the case of **Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai**, reported in 2012 (5) SCC 157, in para 18 of the judgment, the Court said as under:-

“What needs to be emphasized is that even though a liberal and justice oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the Courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost. What colour the expression “sufficient cause” would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the Court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bonafides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay. In cases involving the State and its agencies/instrumentalities, the Court can take note of the fact that sufficient time is taken in the



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decision making process but no premium can be given for total lethargy or utter negligence on the part of the officers of the State and / or its agencies/instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the ground of bar of limitation will cause injury to the public interest.”

20. After taking into consideration the averments made in the application under Section 5 of the Limitation Act and after hearing the learned Counsel for the petitioner, this Court is not satisfied that the petitioner has explained the delay in filing the present Criminal Revision Petition.

21. In my view, the kind of explanation rendered herein does not satisfy the observations of the Honourable Supreme Court that if delay has occurred for reasons, which does not smack of mala fide, the Court should be reluctant to refuse condonation. On the contrary, I find that here is a case, which shows complete careless and reckless long delay on the part of the petitioner, which has remain virtually unexplained at all. Therefore, I do not find any reason to exercise my judicial discretion exercising judiciously so as to justify the condonation of delay in the present case.



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22. In the result, in the light of the above said observations and discussions made above and in the light of the decisions referred to above, this Criminal Miscellaneous Petition filed under Section 5 of the Limitation Act with a prayer for condoning the delay of 488 days in filing the Criminal Revision Petition is baseless and the same is hereby rejected.

23. In view of the above, the Criminal Miscellaneous Petition is **dismissed**, as devoid of merits. There is no order as to costs.

24. Accordingly, in view of the above discussion and legal position, the present Criminal Revision Petition is dismissed.

19.09.2025

Index: Yes/No
Web: Yes/No
Speaking/Non Speaking

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- To:
- 1.The Judicial Magistrate No.1, Tirunelveli.
 - 2.The Sub Inspector of Police,
City Crime Branch,
Tirunelveli District.
 - 3.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.
 - 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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SHAMIM AHMED, J.

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