

**THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA  
AND  
THE HON'BLE JUSTICE GADI PRAVEEN KUMAR**

**I.A.No.2 of 2025  
IN/AND  
FAMILY COURT APPEAL No.96 of 2025**

Mrs. A. Anasuya, learned counsel for the appellant

Ms. Zainab Khan, learned counsel for the respondent

**COMMON ORDER:** (Per Hon'ble Justice Moushumi Bhattacharya)

1. I.A.No.2 of 2025 is for condonation of a delay of 764 days in filing the Family Court Appeal from an order dated 08.08.2022 passed by the Principal Family Court at Secunderabad in I.A.No.448 of 2021 in O.P.No.15 of 2006.

2. The applicant/appellant prays for condonation of delay on the grounds stated below:

2.1 Paragraphs 1 to 6 of the affidavit filed in support of the I.A. contain various statements regarding the merits of the Appeal including the fact that the applicant/appellant made payment of arrears of interim maintenance of Rs.85,400/- by 31.01.2020 and filed Postal Money Order Receipts through

which the interim maintenance amounts were sent to the respondent.

2.2 Paragraph 7 is the only paragraph in which the applicant/appellant gives the reasons for the delay of 764 days in filing the Family Court Appeal. The reasons are as follows:

*“After receiving the un-marked documents, I was under trauma and mental agony and also underwent a surgery for BMG on 26.07.2023 and I was not in a position to instruct my advocate for taking necessary further steps. Immediately after my recovery from the surgery, now, I am filing the present FCA being aggrieved by the orders passed in I.A.No.448 of 2021 dated 08.08.2022. The delay of 764 days caused in this process is neither willful nor wanton and is only for the reasons explained supra.”*

3. The affidavit does not contain any other reason for condoning the delay of 764 days.

4. Learned counsel appearing for the applicant/appellant submits that the delay should be condoned since there are substantive issues which are required to be considered.

5. Learned counsel appearing for the respondent submits that the Certified Copy of the impugned order dated 08.08.2022

was made available on 27.08.2022. The applicant/appellant applied for the return of the Postal Money Order Receipts in I.A.No.513 of 2022 in F.C.O.P.No.67 of 2015 after the passing of the impugned order i.e., after August 2022. The learned Family Court permitted return of the Postal Money Order Receipts on 12.05.2023. Counsel further submits that on 17.08.2023, the applicant/appellant filed a Criminal Revision Case (CrI.R.C.No.521 of 2023) in this Court against an order passed by the learned Principal Family Court, City Civil Court at Secunderabad, in M.C.No.61 of 2016 on 30.06.2023.

6. We have carefully perused the affidavit filed in support of the I.A as well as the counter-affidavit filed by the respondent. We have also considered the rival submissions.

7. Section 5 of The Limitation Act, 1963 provides for extension of time to file applications or appeals beyond the prescribed limitation period, subject to the Court being satisfied with the sufficiency of cause shown by the appellant/applicant.

8. In the present case, the only reason given by the applicant/appellant is that the applicant had to undergo surgery on 26.07.2023. The surgery is described as 'BMG'. The applicant has not provided the full form of the abbreviation. The other reason provided is that the applicant/appellant was in trauma as a result of the surgery. Apart from other lacunae in the affidavit, there is no explanation given by the applicant/appellant for the delay between 27.08.2022 and 26.07.2023 i.e., from the date on which the Certified Copy of the impugned order was made available until the surgery, and then again from 26.07.2023 to 27.12.2024. Hence, there are two large chunks of delay which remain unexplained by the appellant.

9. Under section 19(3) of The Family Courts Act, 1984, every appeal shall be preferred within a period of thirty days from the date of the judgment or order of a Family Court.

10. Section 5 of The Limitation Act, 1963 requires the applicant/appellant to show sufficient cause for the satisfaction of the Court for condoning the delay. The sufficiency of cause

should be based on a genuine and *bona fide* attempt by the appellant to explain the delay.

11. *Inder Singh Vs. The State of Madhya Pradesh*<sup>1</sup> does not assist the appellant. The Supreme Court agreed with the principle that delay cannot be condoned without sufficient cause. The said decision also emphasized that a State should not be given any undue indulgence compared to an ordinary litigant, especially in matters of limitation. On the other hand, *H. Guruswamy Vs. A. Krishnaiah*<sup>2</sup> unequivocally held that the Court owes a duty to ascertain the *bona fides* of the explanation offered by a party seeking condonation and further that the question of limitation is not merely a technical consideration.

12. The *bona fides* of the appellant are questionable in the present case since the appellant admittedly filed a Criminal Revision in 2023 while pleading in the present application filed under section 5 of The Limitation Act, 1963 that the appellant

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<sup>1</sup> 2025 LiveLaw (SC) 339

<sup>2</sup> 2025 SCC OnLine SC 54

could not take steps for filing of the present Appeal since the appellant was agony and trauma.

13. The contention of the applicant/appellant that the Appeal contains substantive issues is also to be rejected simply for the reason that the Trial Court in the impugned order dated 08.08.2022 clearly recorded that the appellant sought restoration of the appellant's O.P. after 13 years without giving any proper or justifiable explanation. In essence, the appellant's O.P. was dismissed on 01.03.2007 and the restoration petition was filed after 13 years. The Trial Court also recorded that the appellant had not adduced any evidence or shown any *bona fides* in respect of payment of interim maintenance to the respondent/wife and that the respondent had categorically denied receiving any such payment from the applicant/appellant.

14. Therefore, we are of the firm view that the conduct of the appellant dislodges the argument of substantive issues being tried in the present Appeal.

15. I.A.No.2 of 2025 is accordingly dismissed. F.C.A.No.96 of 2025, along with all connected applications, is consequently dismissed. There shall be no order as to costs.

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**MOUSHUMI BHATTACHARYA, J**

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**GADI PRAVEEN KUMAR, J**

DATE: 14.08.2025  
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