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

+ **CRL.M.C. 1953/2025**

OM PRAKASH CHAUDHARYPetitioner
Through: Mr. Girdhari Singh, Mr.
Rajiv Singh Pilania and
Mr. A.P. Sidharth, Advs.

versus

STATE GOVT. OF NCT OF DELHI
AND ANR.Respondents
Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Nitin Kumar, PS Farsh
Bazar.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
24.03.2025

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CRL.M.A. 8801/2025 (*exemption from filing certified copies/
fair and clear copies of the dim annexures and for not leaving
proper margin*)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 1953/2025 & CRL.M.A. 8800/2025 (*stay*)

3. The present petition is filed against the order dated 24.01.2025 (hereafter '**impugned order**') passed by the learned Additional Sessions Judge ('**ASJ**'), Karkardooma Court, Delhi in Cr. Rev. No. 101/2024. Summoning order dated 27.05.2022, whereby the petitioner was summoned for offences under Sections 420/468/471/34/120B of the Indian Penal Code, 1860 ('**IPC**'), was challenged in the subject revision petition before the



Court of Sessions.

4. By the impugned order, the learned ASJ dismissed the revision petition filed by the petitioner while specifically noting that the summoning order was passed by the learned Magistrate on 27.05.2022 whereas the revision petition was filed belatedly on 16.05.2024. The revision petition was required to be filed within the period of limitation of 90 days.

5. The petitioner does not dispute that he had received the summons before 11.10.2022. It is the case of the petitioner that he had received the summons before the said date without any documents, and that thereafter when he approached the learned Trial Court, the Court was on leave on 11.10.2022, and the matter got adjourned.

6. In any event, as per the Trial Court Record, the summons were received at least on 07.12.2022. Despite the same, the revision petition was filed by the petitioner only on 16.05.2024, that is, after a delay of almost two years from the date of passing of the summoning order. The petitioner also tried to fasten the responsibility of the delay caused in filing the revision petition on his counsel.

7. The Hon'ble Apex Court, in a very recent case of ***H. Guruswamy v. A. Krishnaiah*** : 2025 SCC OnLine SC 54, in relation to the rules of limitation observed as under:

"15. The rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to dilatory tactics but seek their remedy promptly.

16. The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a



party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

17. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No court should keep the 'Sword of Damocles' hanging over the head of a litigant for an indefinite period of time."

(emphasis supplied)

8. From a perusal of the material on record, and as maintained by the petitioner himself, the summons were received by him before 11.10.2022. Further, it is the petitioner's own case, that he had appeared before the learned Trial Court on 11.10.2022. In any event as per the Trial Court Record, the summons were received by the petitioner at least on 07.12.2022.

9. Even if the petitioner's case is taken at the highest, it is unclear why after having appeared before the learned Trial Court on 11.10.2022, the petitioner failed to make efforts to join the proceedings or challenge the summoning order which was subsequently filed belatedly only on 16.05.2024.

10. The petitioner also alleged the conduct of his counsel to be the reason for filing the revision petition on belatedly. It is pertinent to mention that the parties must remain proactive and vigilant while pursuing their rights and remedies, and cannot be allowed to neglect their rights and suddenly file a petition. If the argument of the petitioner that the delay was caused on account



of the counsel not taking steps is accepted, it would only tantamount to opening a floodgate of litigations.

11. It is pertinent to mention that Section 5 of the Limitation Act, 1963 envisages condonation of delay only on the ground that the party, due to some adequate and enough reason, was prevented to approach the Court within the period of limitation.

12. Upon careful consideration, it is evident that no worthy grounds had been pleaded that would merit any consideration. The onus lay on the petitioner to establish a credible and justifiable explanation for failing to file the petition within the prescribed time frame.

13. Even otherwise, the order dated 27.05.2022 passed by the learned Magistrate, is only a summoning order after which much water would have flown and the trial would have proceeded.

14. This Court, therefore, does not consider it apposite to entertain the present petition at this stage.

15. The present petition is accordingly dismissed. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

MARCH 24, 2025

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