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

% *Date of decision: 25th August, 2025*

+ **CRL.REV.P. 332/2025, CRL.M.A. 25042/2025 & 25043/2025**

1. **PANKAJ KUMAR SHARMA**
S/o Sh. Vyas Sharma
R/o P-16, DIAT, DRDO Complex,
Girinagar, Pune, Maharashtra.

2. **SANGITA SHARMA**
W/o Pankaj Sharma
R/o P-16, DIAT, DRDO Complex,
Girinagar, Pune, Maharashtra.

.....Petitioners

Through: Mr. Mukesh Kumar Suman, Advocate

versus

1. **RASHMI KUMAR**
W/o Rajeev Kumar
Presently Residing at:
E-22/4, DRDO Township, Kanchanbagh,
Bandlaguda, Hyderabad,
Telangana.

2. **STATE (NCT OF DELHI)**
Through
SHO, P.S. Timarpur,
New Delhi.

.....Respondents

Through: Mr. Samant Singh, Advocate for R-1
with Respondent No.1 through VC

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)



1. Revision Petition under Section 438 read with Sections 442 and 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 for setting aside Order dated 24.04.2025 passed by learned Special Judge (NDPS-01), Central District, Tis Hazari Courts, Delhi, vide which the Application for condonation of delay of 220 days in filing the present Revision Petition filed by the Complainant/Respondent No.1 was allowed and the Complaint under Section 200 Cr.P.C filed on her behalf, has been restored.
2. Issue Notice.
3. Learned counsel for Respondent No.1 and State/Respondent No.2 appear on advance Notice and accept Notice.
4. Learned counsel for the Petitioner submits that Respondent No.1 had filed a Complaint dated 14.09.2018 before PS Timarpur alleging about the incident which had taken place on 13.09.2018, but no FIR was registered. Respondent No. 1, thereafter filed a Complaint dated 13.09.2018 against the Petitioners, as counter blast, filed by Petitioner No.2 against *Rajeev Kumar* (husband of Respondent No.1). FIR No.0204/2018 dated 13.09.2018 was registered, which resulted in conviction of Respondent No. 1's husband vide judgment dated 28.08.2024 under Sections 354/354A/354B/323/506/509 IPC, by learned JMFC (Mahila Court-03), Central District, Tis Hazari Courts, Delhi.
5. Since, no FIR was registered on the Complaint of Respondent No. 1, she filed Complaint under Section 200 read with Section 156(3) Cr.P.C. which was dismissed in default for non-prosecution as well as for non-appearance. It is asserted that Respondent No.1 was absolutely negligent in appearing before the learned MM since 18.09.2019. There were 16 dates before the learned MM when she failed to appear and therefore, her



Complaint was dismissed in default on 12.12.2023 with observations that the absence of the Complainant reflects that she is not interested to pursue her Complaint under Section 200 Cr.P.C.

6. The Revision petition was filed by Respondent No.1 against the Order dated 12.12.2023 before the Ld. ASJ who allowed the same *vide* Order dated 27.01.2025.

7. Thereafter, the said Order was challenged before this Court and was set aside by the Coordinate Bench of this Court *vide* Order dated 01.04.2025 and was remanded back to the Ld. ASJ for disposal within 2 weeks. The learned ASJ *vide* impugned Order dated 24.04.2025 considered the contentions of the Respondent and the Petitioner, and observed that there were sufficient grounds for condonation of delay and also for setting aside Order the dated 12.12.2023 *vide* which the Complaint under Section 200 Cr.P.C was dismissed. The Complaint was directed to be restored for recording of the evidence and disposal in accordance with law.

8. The Impugned Order dated 24.04.2025 of learned ASJ has been ***challenged on the ground*** that there is no sufficient ground for condonation of delay of 220 days in filing the Revision Petition. The delay has been condoned merely on the ground that medical condition of Respondent No.1, who claims to have suffered fracture in left hand on 29.12.2022 in an accident. It has not been appreciated that on 12.12.2023, when the Complaint was dismissed, she was not suffering from any medical issue and had fully recovered. Further consultations on 30.04.2024 (i.e. after six months) and again on 27.09.2024 (i.e. after about five months) followed by 16.01.2025 (i.e. after about four months) were only for follow up purposes. During these consultations over a period of about 15 months Respondent



No.1 changed four Hospitals.

9. It is further mentioned that out of 42 visits as claimed by Respondent No.1, about 90% were for consultations only, which were made Apollo DRDO Hospital. However, for the last four visits, she had changed four Hospitals. Moreover, she never intimated about her medical condition to the learned MM, before dismissal of CC No.7317/2018 on 12.12.2023. Her medical prescription shows wrong entry of the Date of Birth, Name, Age and Gender as Male and also the date of medical prescription is not reflected. The Receipts of the payment show the details as Mr. Rashmi Kumar, 42 Male, Reference - by Self etc. which clearly indicates that the medical documents to support the condonation of delay, are not genuine and prepared as an afterthought to create ground for condonation of delay.

10. Although it has been held by Courts that hyper technical view should not be taken while dealing with condonation of delay Application, nonetheless sufficient cause has to exist for condonation of delay. In the present case, when limitation started running, Respondent No.1 had fully recovered and was not suffering from any medical ailments. There were no sufficient grounds for condoning the delay in filing the Revision Petition or setting aside the Order of learned MM dismissing the Complaint in default.

11. It is further asserted that learned ASJ has observed that counsel or proxy counsel of the Complainant had been regularly appearing, but on five dates, even the counsel for the Complainant was not present. It has been continuously fixed for pre-summoning evidence and mere presence of counsel would not have served any purpose. It has been wrongly recorded that it is an admitted fact that Respondent No.1 suffered from accident in December, 2022 or had undergone surgery thrice for the same. These



documents have not been admitted by the Petitioners nor has there any witness to the accident or medication.

12. The adjournments granted are blatant abuse of process of law. Section 346 Cr.P.C permits adjournment only if circumstances are beyond the control of a Party. S.309 B.N.S.S. *inter alia* provides that even when circumstances are beyond control of a party, not more than two adjournments can be granted.

13. It has also not been disclosed before the Revisional Court that FIR was registered on the Complaint filed against Respondent No.1's husband, who has already been convicted. It is further submitted that parents of Respondent No.1 had visited the Petitioners' house on 12.09.2024 without any prior appointment or permission, to coerce the Petitioners for entering into settlement. Subsequent to their visit on 12.09.2024, her husband kept on pressurizing and threatening through WhatsApp calls to the Petitioner No.1 to settle the matter that if they did not enter into settlement, Respondent No.1 would re-open her Complaint by filing Revision Petition.

14. Again, Respondent No.1 who was staying in Hyderabad, along with her father visited the Petitioners on 27.12.2024 about 08:30 AM without any proper entry in security register kept at the main gate, but Petitioners were not at home. Mr. Gopal Prasad Gupta, Father of Respondent No.1 enquired about Petitioners from a guest, Mr. Ali Ahmad, who was present in their house. He remarked to Mr. Ali Ahmad that counsel the Petitioners to withdraw the case or else they would have to suffer the consequences. Respondent No.1 also threatened that she would not spare the Petitioners and teach them a lesson.



15. It is thus, asserted that the present Complaint is nothing but a counter blast to the FIR of the Petitioners, which has been filed merely to harass them. This Complaint is nothing but a pressure tactic on the Petitioners to make them arrive at a settlement in the criminal case, in which the Respondent No.1's husband is convicted.

16. Reliance has been placed on Krishna Lal Chawla vs. State of UP & Anr., AIR 2021 SC 1381 wherein it has been observed that the Trial Courts and the Magistrates have powers not only to decide after the trial, on acquittal or conviction of the accused person, but also the duty to nip frivolous litigations in the bud even before they reach the stage of trial by discharging the accused in fit case. These circumstances clearly reflect the *mala fide*.

17. He is a distinguished person, who holds M-Tech from IIT Bombay and Ph.D. from IIT Delhi and is serving the Nation as a Scientist in DRDO for the last 23 years and is presently posted at Defence Institute of Advanced Technology, Girinagar, Pune.

18. It is therefore, submitted that the impugned Order of the Revisional Court be set aside.

19. ***Learned counsel for Respondent No.1*** submits that because of the accident and her medical conditions, she was unable to appear before the learned MM, even though she was being duly represented by a counsel. Her examination in chief had already been partly recorded when her Complaint got dismissed in default. The delay has been fully explained by the medical documents placed on record. There is no infirmity in the impugned Order and the Petition is liable to be dismissed.



20. It is further submitted that since the remand of the Complaint to learned JMFC *vide* Order dated 27.01.2025, the statement of Complainant had been concluded and only two witnesses out of three, who remain to be examined, were summoned, but their testimony could not be recorded. Now they would be appearing before the Court on 03.09.2025.

21. It is submitted that there is no infirmity in the impugned Order and the Petition is liable to be dismissed.

Submissions heard and record perused.

22. The Respondent had filed a Complaint under Section 200 Cr.P.C. along with an Application under Section 156(3) Cr.P.C which got dismissed in default on 12.12.2023. Thereafter, the Respondent moved a **Criminal Revision No.464/2024** on 22.10.2024 before the learned ASJ who allowed the same *vide* Order dated 27.01.2025 and observed that justifiable reasons have been given by the Respondent to explain the delay of 220 days in filing the Revision Petition and also for restoration of the Complaint under Section 200 Cr.P.C. Therefore, the impugned Order was directed to be set aside and the Complaint was restored to its original number.

23. Aggrieved by the Order of the learned ASJ, the Petitioner filed CRL.REV.P. 112/2025 *vide* which the Order dated 27.01.2025 was set aside and the matter was remanded back to the ASJ for fresh consideration and was accordingly disposed off on 24.04.2025 *vide* which the Complaint Case of Respondent No. 1 was restored.

24. Aggrieved by the same the present Petition has been preferred.

25. Before considering the merits, it may be observed that this is a Criminal Revision filed against the Revision Petition decided by the learned ASJ. It is a settled law that there cannot be a revision of the Revision Order



and the Petition per-se is not maintainable on this ground. However, not going into the hyper technicalities, the merits of the case are being considered.

26. There is a delay of 220 days in filing the Revision Petition against the impugned Order of Dismissal in Default of the Complaint dated 12.12.2023.

27. There are two aspects to the Order, **one** being the *Condonation of Delay of 220 days* in preferring the Revision and **secondly**, on merits by which the impugned *Order of Dismissal in Default dated 12.12.2023*, has been set aside.

28. In so far as the Dismissed in Default Order dated 12.12.2023 is concerned, the Respondent has placed on record the medical Records, which show that she met with an accident in December, 2022 and has remained under treatment till January, 2025. Much has been contended on behalf of the Petitioner that the treatment had continued for a short while after which the visits to the Hospital with a gap of six months only for the purpose of follow up. There is nothing to show that she was incapacitated in any manner in pursuing her day-to-day routine or to pursue her matter before the learned M.M or to file the Revision Petition within the time frame. The explanation tendered by the Respondent for condonation of 220 days, is not borne out even from her own records.

Condonation of Delay of 220 Days in filing the Revision Petition:

29. The First aspect is whether there existed sufficient reason to condone the delay of 220 days in filing the Revision Petition.

30. It is not denied that her husband had admittedly been transferred to Hyderabad in 2019 and Respondent No.1 had been pursuing her matter from Hyderabad. Additionally, she met with an accident and her medical Record



show that after a regular treatment, she had been going to the Hospital from time to time for follow up. The Petitioner had contended that in last about two years, she had visited at a gap of about 6 months. Moreover, the medical documents have been manipulated as is evident from the discrepancies in the Medical Prescriptions. However, the fact remains that she was incapacitated on account of her accident and the injuries by her. It may not have been a regular treatment, but definitely there was a medical limitation for her to be able to appear in the Court. The physical distance and the medical condition are sufficient to explain the delay of 220 days in filing the Revision Petition.

31. It can also not be overlooked that the law is well settled that while considering the condonation of delay, the Courts must adopt liberal interpretation and must not permit hyper technicalities of law to defeat the rights on substantive grounds.

32. Considering her explanation given and also in the interest of justice, it has to be held that the delay of 220 days had been rightly condoned by the learned ASJ.

Whether Order of Dismissal in Default dated 12.12.2023, has been rightly set aside.

33. The *second aspect* is whether there existed sufficient reason for restoration of the Complaint under Section 200 Cr.P.C.

34. As has been observed by the learned ASJ, since 01.04.2020 till February, 2022 the Courts were either closed or the matters were being heard virtually and there was a restricted functioning of the Court on account of Corona Pandemic. However, even on those dates during this period, the Counsel for the Respondent had remained present before the Court of learned M.M. It is further not disputed that the husband of the



Respondent got transferred to Hyderabad in 2019 and she had to travel all the way from Hyderabad to Delhi. Moreover, she met with an accident in December, 2022 and underwent surgery thrice after which she was going for regular follow up. The evidence of the Revisionist has already been recorded on 24.06.2020.

35. There may have been some delay in the conclusion of the evidence of the Complainant, but in the given circumstances it cannot be said that it was for absolutely unjustifiable reasons. A woman pursuing a Complaint from Hyderabad is bound to suffer from some handicap of appearing on every date. Moreover, there is nothing to show that the Counsel for the Complainant was not vigilant in pursuing the matter. Merely because the matter got adjourned on various dates, cannot be a ground to hold that the Complaint which got dismissed in Default must not be restored. Her previous conduct during the pendency of the Complaint cannot be considered for denying her the right of getting her Complaint restored. What was relevant is only the explanation for non- appearance on 12.12.2023 when the Complaint got dismissed in default.

36. The Petitioner has also claimed that her medical condition is only a camouflage as the Respondent intentionally was not pursuing her Complaint, but became active only after the conviction of her husband on 28.08.2024, on a Complaint filed by the Petitioner. Moreover, the husband of the Petitioner had been approaching and threatening him to settle the disputes. It is claimed that the conduct of the Respondent and that of her husband, clearly shows that the restoration Application has been filed after ten months pursuant to the conviction of the husband.

37. The husband may have got convicted and they may have approached



the Petitioner for a Settlement, but that in itself cannot be a reason to say that the non-appearance of the Respondent on 12.12.2023 was without any justification.

38. It has also been contended that the Complaint filed by the Respondent is nothing but a counter-blast to the Complaint filed on behalf of the Petitioner, which has ultimately resulted in the conviction of the husband of the Respondent. This aspect cannot be considered relevant for considering whether there exists sufficient reason for setting aside the impugned Order dated 12.12.2023 on which date the Complaint was dismissed in Default. It may be agitated when the Complaint is considered on merits. The only aspect for consideration was whether there was any justification for not appearing on 12.12.2023, which has been sufficiently explained by the Respondent and also considered and allowed by the learned Revisional Court.

Conclusion:

39. In the light of the aforesaid discussion, it is held that there is no merit in the present Petition, which is hereby dismissed. However, considering that the evidence of the Complainant is pending since long, it is hereby directed that the learned Trial Court may make an endeavour to conclude the evidence of the parties within six months.

40. The Petition is accordingly disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

AUGUST 25, 2025

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