Serial No.35
Regular Cause List

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

CrlM No. 171/2025 in
CrlA (AS) No. 7/2025

Union Territory of J&K,
Through SHO Police Station Damhal,
Hanjipora, Kulgam

…Appellant(s)

Through:
Mr Ilyas Nazir Laway, Government Advocate.

V/s.

Hilal Ahmad Dar and Ors. **...Respondent(s)**

Through:
Mr Zahid Hussain Dar, Advocate with
Mr Zahid Afzal, Advocate.

CORAM:
Hon'ble Mr Justice Shahzad Azeem, Judge.

ORDER
25.11.2026

01. This is an application filed by the Applicant/ Appellant-Union Territory of Jammu & Kashmir, through the Station House Officer, Police Station, Damhal, Hajnipora, Kulgam, seeking condonation of delay of 731 days in filing the acquittal appeal against the Judgment dated 22nd of November, 2022 passed by the learned Additional Sessions Judge/ P. O. Fast Track Court, Kulgam ["the Trial Court"] in Challan titled **"UT of J&K v. Hilal Ahmad Dar & Ors."**, whereby the Respondents-accused were acquitted of the charges under Sections 366 and 376-D of the Indian Penal Code (IPC) arising out of FIR No. 109/2020 registered at Police Station Damhal Hajnipora, Kulgam.

02. The Applicant/ Appellant has sought to justify the inordinate delay of 731 days on the ground that same is neither intentional nor

deliberate, however, it has been occasioned due to administrative approvals/ sanctions.

03. Heard learned Counsel for the parties.

04. On looking to the tone and tenor of the application, the Applicant/ Appellant has completely omitted to take into consideration, while drafting the application, that the State does not stand on a higher pedestal in the matter of condonation of delay and, thus, is required to explain the delay of each and every day, which of course is totally absent in the application.

05. It is settled proposition of law that in order to seek exemption from the law of limitation, it is the duty of the party to explain each and every day's delay and the Government is no exception to this proposition. In this regard, a reference can be made to the law laid down by the Hon'ble Supreme Court in **"Mahant Bikram Dass Chela V. Financial Commissioner, Revenue, Punjab, Chandigarh & Ors., (1977) 4 SCC 69"**.

06. The applicability of the law of limitation *vis-à-vis* the Government is lucidly dealt with by the Hon'ble Supreme Court in **"State of Madhya Pradesh & Ors. v. Bherulal, (2020) 10 Supreme Court Cases 654"**, wherein it has been observed that the law of limitation binds everybody, including the Government and the Government Departments are under a special obligation to ensure that they perform their duties with diligence and commitment. It is further observed that condonation of delay is an exception and should not be used as an anticipated benefit for the Government Departments. The Apex Court authoritatively held that the law shelters everyone under the same light and should not be swirled for the benefit of a few.

07. Even otherwise, no ground, much less any sufficient ground, is made out. I am not persuaded to take up the matter and consider it on merits. In the absence of any convincing reason for the inordinate delay of 731 days, which is the statutory requirement, any order passed on the application would amount to an abuse of the process of law, even on a *fortiori* reason.

08. In view of the above, it is held that no sufficient ground is made out for condoning the delay of 731 days. Accordingly, the instant application is **dismissed**. Resultantly, the main appeal, being CrlA (AS) No.7/2025, shall also stand **dismissed**.

(Shahzad Azeem)
Judge

SRINAGAR:
November 25th, 2026
"TAHIR"

HIGH COURT
JAMMU & KASHMIR AND LADAKH

Tahir Manzoor Bhat
I attest to the accuracy and
authenticity of this document
26.11.2026