

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR CONDONATION OF DELAY) NO.
5903 of 2026****In****F/CRIMINAL REVISION APPLICATION/8285/2026**

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ASALAMBHAI AAMADBHAI GANDHAR**Versus****STATE OF GUJARAT & ANR.**

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Appearance:**MR HARSHADRAY R KAPADIYA(11640) for the Applicant(s) No. 1****MR. VIJAYKUMAR R TAKODIYA(14360) for the Applicant(s) No. 1****MR BHARGAV PANDYA, ADDITIONAL PUBLIC PROSECUTOR for the
Respondent(s) No. 1**

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CORAM:HONOURABLE MS. JUSTICE GITA GOPI**Date : 12/03/2026****ORAL ORDER**

1. This Application has been filed praying for condonation of delay of 35 days in filing of the above Criminal Revision Application.
2. Learned advocate for the applicant Mr. Harshadray R. Kapadia submitted that the cheque amount has already been paid and the parties have settled the matter. It is further submitted that the affidavit of the complainant verifies the fact of settlement. It is submitted that all these aspects / factors have contributed to the above delay.

3. Learned Additional Public Prosecutor submitted that the applicant had enough time to prefer a Revision Application and each and every delay is required to be explained and therefore, urged to reject the application.

4. In the case of **Collector, Land Acquisition, Anantnag and Another v. Mst. Katiji and Others** reported in **AIR 1987 SC 1353** it has been observed as under :-

"3. The legislature has conferred the power to condone delay by enacting [Section 5](#) of the Indian Limitation Act of 1963 in order to enable the Courts to do substantial justice to parties by disposing of matters on 'merits'. The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaning- ful manner which subserves the ends of justice--that being the life-purpose for the existence of the institution of Courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other Courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:-

1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted 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.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so."

5. Considering the submissions advanced, in view of the facts and circumstances of the case especially that the applicant had to make arrangements for the funds and that the matter is under Section 138 of the Negotiable Instruments Act, 1881 as also the ratio laid down in the above judgment, the present application is allowed and the delay of 35 days in filing of the above Criminal Revision Application is condoned.

6. Let the main matter be listed on **MARCH 16, 2026.**

Sd/-
(GITA GOPI, J)

CAROLINE / DB # 4

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: CAROLINE ANTHONISWAMY(HC00212), Principal pvt Secretary, at High Court of Gujarat on 12/03/2026 17:39:35