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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO.218 OF 2026
IN
CRIMINAL MISC. APPLICATION (MAIN) NO.921 OF 2026(F)

THE STATE OF GOA. THR.
MAINA CURTORIM
POLICE STATION ... APPLICANT

Versus.

SHIVAPPA @ SHIVA LAMANI ... RESPONDENT

Ms. Swati Kamat Wagh, Additional Public Prosecutor with Ms. Shibani Singh, Advocate for the Applicant.

CORAM:- ASHWIN D. BHOBE, J.

DATED :- 26th October, 2026

P.C.

1. Heard, Ms. Swati Kamat Wagh, learned Additional Public Prosecutor for the Applicant.

2. By this Application, the Applicant seeks condonation of 302 days to file the leave to appeal against the Judgment and Order dated 10.07.2025 ('impugned Judgment') passed by the Children's Court, Panaji, Goa, in Special Case No. 05/2021.

3. Ms. Swati Kamat Wagh, learned Additional Public Prosecutor, tenders an additional affidavit dated 26.10.2026, which is taken on record and marked with **'X'** for identification.

4. Ms Swati Kamat Wagh, learned Additional Public Prosecutor for the State, by referring to the application memo and the additional affidavit ('X') submits that the delay in filing the appeal is due to the movement of the file from one Department to another.

5. Perused the application seeking condonation of delay and the additional affidavit ('X').

6. The application explaining the reasons for the delay in filing the application seeking leave to appeal is vague. By way of an additional affidavit at Exhibit 'X', the Investigation Officer states that the certified copy of the impugned judgment was applied for on 10.07.2025, was ready on 30.07.2025 and was delivered on 31.07.2025. Thereafter, the additional affidavit at Exhibit 'X' refers to a communication dated 24.12.2025 from the Superintendent of Police, South Goa, which, in turn, refers to a communication received from the Directorate of Prosecution. Further, the Investigation Officer states that the Directorate of Prosecution gave its opinion on 10.02.2026. The Investigation Officer further

contends that on 07.04.2026, the file was sent to the Additional Public Prosecutor's office.

7. In *Postmaster General v. Living Media India Ltd.*[1], the Hon'ble Supreme Court in paragraph 29 has observed as follows:-

> *"29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."*

8. In *State of Odisha v. Managing Committee of Namatara Girls High School* [2], paragraphs 13 to 19, the Hon'ble Supreme Court observed as follows:

> *" 13. However, since there is a long line of decisions of this Court propounding the law that the expression 'sufficient cause' employed by the legislature in Section 5 of the Limitation Act, 1963 is adequately elastic to*

[1] (2012) 3 SCC 563

[2] 2026 SCC OnLine SC 191

enable the courts to apply the law in a meaningful manner which subserves the ends of justice and in view of the submission of Ms. Sanjana, we have considered it appropriate to consider the matter in some depth.

14. Almost four decades back, in Collector, Land Acquisition, Anantnag v. Mst Katiji9, a coordinate Bench noting that the justifiably liberal approach which this Court has been adopting in matters instituted before it is not being followed by the courts lower in the hierarchy, mandated that a justice oriented approach is indeed called for when a 'State' seeks condonation of delay as distinguished from 'a private party'.

15. Close on the heels of Katiji (supra), Hon'ble Justice M.N. Venkatachaliah speaking for the coordinate Bench in G. Ramegowda v. Land Acquisition Officer10 had referred to Katiji (supra) in paragraph 14 and quoted the following passage therefrom:

"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 …

It must be grasped that judiciary is respected not on account of its power to legalise injustice on technical

grounds but because it is capable of removing injustice and is expected to do so."

Immediately thereafter, in paragraphs 15 to 17, it was held as under:

15. In litigations to which Government is a party there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost for such defaults, no person is individually affected; but what, in the ultimate analysis, suffers is public interest. The decisions of Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals.

16. The law of limitation is, no doubt, the same for a private citizen as for governmental authorities. Government, like any other litigant must take responsibility for the acts or omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it.

17. Therefore, in assessing what, in a particular case, constitutes "sufficient cause" for purposes of Section 5, it might, perhaps, be somewhat unrealistic to exclude from the considerations that go into the judicial verdict, these factors which are peculiar to and characteristic of the

functioning of the government. Governmental decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red tape in the process of their making. A certain amount of latitude is, therefore, not impermissible. It is rightly said that those who bear responsibility of Government must have "a little play at the joints". Due recognition of these limitations on governmental functioning — of course, within reasonable limits — is necessary if the judicial approach is not to be rendered unrealistic. It would, perhaps, be unfair and unrealistic to put government and private parties on the same footing in all respects in such matters. Implicit in the very nature of governmental functioning is procedural delay incidental to the decision-making process. In the opinion of the High Court, the conduct of the law officers of the Government placed the Government in a predicament and that it was one of those cases where the mala fides of the officers should not be imputed to Government. It relied upon and trusted its law officers. …

16. Katiji (supra) and Ramegowda (supra) were consistently followed by this Court until adoption of a different and seemingly strict approach while dealing with applications for condonation of delay during the last decade and a half became discernible starting with the decision in Postmaster General v. Living Media India Limited11, where a delay of 427 days in filing the relevant special leave petition was not condoned.

University of Delhi v. Union of India12 is another decision (of a three-Judge Bench of this Court) where delay of 916 days was not condoned. While upholding the decision of the relevant high court under challenge refusing to condone the delay of 5659 days in presentation of an appeal under Section 54 of the Land Acquisition Act, 1894 by the heirs of a deceased landowner, a coordinate Bench in Pathapati Subba Reddy v. Collector(LA)13 very recently reiterated that the law of limitation is founded on public policy, the object is that a legal remedy is put to an end so that no litigation remains pending for an indefinite period. It was also held, departing from the earlier view, that the merits of the case cannot be considered at the stage of considering the application for condonation of delay.

17. Indeed, one of us [Dipankar Datta] in Sheo Raj Singh v. Union of India14 authoring the judgment for a coordinate Bench adopted the view taken in Katiji (supra), Ramegowda (supra) and a host of other decisions following the same while not interfering with an order of condonation of delay passed by the relevant high court. However, it was observed that a distinction ought to be drawn between an 'explanation' and an 'excuse' that is proffered as cause for condonation of delay. It was also emphasized that a different approach has to be adopted while this Court is considering an application for condonation of delay in presentation of an appeal/application and when it sits in appeal over a

discretionary order of the high court granting the prayer for condonation of delay. In the case of the former, whether to condone or not would be the only question whereas in the latter, whether there has been proper exercise of discretion in favour of grant of the prayer for condonation has to be examined.

18. However, what perhaps remained unnoticed in any of the decisions post Katiji (supra) and Ramegowda (supra) adopting a liberal approach is the exasperation and consequent lament expressed by none other than Hon'ble M.N. Venkatachaliah, CJI. in course of authoring a brief order in Commissioner of Wealth Tax, Bombay v. Amateur Riders Club, Bombay15 and admonishing officers of the "revenue" in not acting with promptitude. This order was made within six years of the decision in Ramegowda (supra). We can do no better than quoting the same in its entirety hereunder:

1. *We have heard Shri S.C. Manchanda, learned senior counsel for the Revenue.*

2. This special leave petition filed on November 16, 1993 is delayed by 264 days. For quite some time in the past, this Court has been making observations as to the grave prejudice caused to public interest by appeals brought on behalf of the Government being lost on the point of limitation. Such observations have been made for over a few years in the past. But there seems to be no

conspicuous improvement as is apparent in the present petition which is filed in November 1993. The explanation for the delay, had better be set out in petitioner's own words:

"(g) The Advocate-on-Record got the special leave petition drafted from the drafting Advocate and sent the same for approval to the Board on June 24, 1993 along with the case file. (h) The Board returned the case file to the Advocate-on-Record on July 9, 1993 who re-sent the same to the Board on September 20, 1993 requesting that draft SLP was not approved by the Board. The Board after approving the draft SLP sent this file to CAS on October 1, 1993."

3. This explanation is incapable of furnishing a judicially acceptable ground for condonation of delay. After the earlier observations of this Court made in several cases in the past, we hoped that the matters might improve. There seems to be no visible support for this optimism. There is a point beyond which even the courts cannot help a litigant even if the litigant is Government which is itself under the shackles of bureaucratic indifference. Having regard to the law of limitation which binds everybody, we cannot find any way of granting relief. It is true that Government should not be treated as any other private litigant as, indeed, in the case of the former the decisions to present and prosecute appeals are not individual but are institutional decisions necessarily bogged down by the proverbial red-tape. But

there are limits to this also. Even with all this latitude, the explanation offered for the delay in this case merely serves to aggravate the attitude of indifference of the Revenue in protecting its common interests. The affidavit is again one of the stereotyped affidavits making it susceptible to the criticism that the Revenue does not seem to attach any importance to the need for promptitude even where it affects its own interest.

4. The application for condonation of delay is, accordingly, dismissed. The special leave petition is, therefore, dismissed as barred by time.
(emphasis ours)

19. Reading Ramegowda (supra) and Amateur Riders (supra), one after the other, leaves none in doubt that it did not take much time for this Court to lose hope. It is absolutely clear that the law was laid down in Ramegowda (supra), following Katiji (supra), with much optimism that matters would improve. Their Lordships, however, found no visible support for such optimism and the Court's patience having been tested to the extreme limit, held that there is a point beyond which even the courts cannot help a litigant even if the litigant labouring under the shackles of bureaucratic indifference is the Government.

9. The reasons stated in the application and the additional affidavit ('X') do not make out any cause, let alone sufficient cause, for

condonation of the delay of 302 days. Condonation of delay cannot be claimed as a matter of right. The cause shown by the Applicant is not an explanation but a lame excuse. The observations in the aforementioned decisions apply to the present case.

10. No case for the exercise of discretion has been made out in this Application.

11. In view of the above, Criminal Miscellaneous Application No. 218 of 2026 is dismissed.

12. In view of the disposal of the Criminal Miscellaneous Application No. 218 of 2026, Criminal Miscellaneous Application (Main) No. 921 of 2026 stands disposed of.

ASHWIN D. BHOBE, J.

Signed by: SHAKUNTALA ZALMI
Designation: Personal Assistant
Date: 28/10/2026 09:54:02