

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.991 OF 2025

Rakesh Bhawarlal Jain (Palgota)

...Petitioner

Versus

Lalita Rakesh Jain & Anr.

...Respondents

*Mr. Shashikant Damodarlal Chandak a/w Kanchan Shashikant Chandak,
for the Petitioner.*

*Mr. Kantilal Kanojia a/w Jyoti Kanojia & Harshala Khopkar, for Respondent
No.1.*

Ms. S. M. Yadav, APP, for the Respondent-State.

Coram: Madhav J. Jamdar, J.

Date: June 15, 2026

P.C.:

1. Heard Mr. Chandak, learned Counsel appearing for the Petitioner and Mr. Kanojia, learned Counsel appearing for Respondent No.1.
2. By the present Writ Petition filed under Article 227 of the Constitution of India, the challenge is to the legality and validity of the Order dated 1st January 2025 passed by the learned Additional Sessions Judge, City Civil and Sessions Court at Mazgaon, Gr. Mumbai in Criminal Miscellaneous Application No.1318 of 2023 ("**impugned Order**"). By the impugned Order, the said Criminal Miscellaneous Application No.1318 of 2023 has been rejected. The said Application was filed seeking condonation of delay that occurred in filing an Appeal under Section 29

of the *Protection Of Women From Domestic Violence Act, 2005*, challenging the Order dated 3rd February 2023 passed by the learned Additional Chief Metropolitan Magistrate, 4th Court, Girgaon, Mumbai in C.C. No.25/DV/2022 below Exhibit-4.

3. In the impugned Order, the learned Appellate Court has observed that a photocopy of the certified copy of the impugned Order, filed on record at Exhibit-4, shows that the copy of the impugned Order was delivered to the Petitioner on 13th February 2023. However, in the Application, the Petitioner has stated that he applied for a certified copy of the impugned Order on 20th June 2023 and, on the very same day, filed the Appeal along with the delay condonation application.

4. In view thereof, it is the contention of learned Counsel for the Respondent No.1 that misleading statement has been made by the Petitioner and, therefore, the learned Sessions Judge has rightly rejected the delay condonation application. Apart from this, Mr. Kanojia, learned Counsel for Respondent No.1, submits that there are huge arrears of maintenance of Rs.31.14 Lakhs. He further submits that there is a minor daughter aged about 16 years, who is presently studying in the 11th Standard and her education is affected as the Petitioner is not paying the maintenance. He therefore submits that this Court ought not to entertain the present Writ Petition in exercise of its discretionary jurisdiction.

5. Mr. Chandak, learned Counsel for the Petitioner, submits that certain payment have been made and that, pursuant to the earlier Order, an amount of Rs.75,000/- has been paid.

6. Thus, considering the huge arrears of maintenance, there is substance in the contention raised by learned Counsel for Respondent No.1 that the Petitioner is not entitled to any discretionary relief in writ jurisdiction of this Court. In any case, in the impugned Order it has been observed that the Petitioner has not come to the Court with clean hands as photocopy of certified copy of order annexed to the delay condonation application has been obtained on 13th February 2023, whereas in the application it is mentioned that the same is applied on 20th June 2023.

7. Thus, in the facts and circumstances, no case is made out for interference in the impugned Order. Accordingly, the Writ Petition is dismissed.

[Madhav J. Jamdar, J.]