



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION [APPA] NO. 955 OF 2025 [Delay]
IN
CRIMINAL APPEAL [STAMP] NO. 9957 OF 2025

1. General Central Life Insurance Company Limited
 (Formerly known as Future Generali India
 Life Insurance Company Limited),
 having its office at Third Floor,
 Milestone Building Ramdaspath, Wardha Road,
 Nagpur-440010, also having its head office at:
 001, Unit Numbers 801 and 802, 8th Floor,
 Tower C, Embassy 247, Park, L.B.S. Marg,
 Vikhroli West – Mumbai, through its authorised signatory
 Mr. Guruswamy Naikar.

2. Mr. Neeraj Murgai,
 Age : 39, Occupation – Private,
 Presently residing at 102,
 Shaheed Bhagat Singh Colony, JB Nagar,
 Behind PVR Cinemas, Andheri (E),
 Mumbai.

3. Conjeevaram Lakshminarasimhan Baradhwaj,
 Age : 60, Occupation – Private,
 Having his residence at A-104,
 Anmol Co-op. Housing Society Limited,
 Off S. V. Road, Excel Estate,
 Goregaon West, Mumbai,
 Maharashtra.

...Applicants

- Versus -

Partha Sarathy Sarkar s/o Mr Prakritiranjana Sarkar,
 Age – Major, Occupation – Nil,
 R/o. Plot Number 20, Surana Layout, Anant Nagar,
 Behind Police Line Takli, Nagpur – 440013.

...Respondent

 Mr. Shraddhanand Bhutada – Advocate for the Applicants
 Respondent Mr. Partha Sarathy Sarkar in-person

AND

CRIMINAL APPLICATION NO. 2665 OF 2025
IN
CRIMINAL APPLICATION [APPA] NO. 955 OF 2025 [Delay]
IN
CRIMINAL APPEAL STAMP NO. 9957 OF 2025

Partha Sarathy Sarkar
Address - 20, Surana Layout,
Anant-Nagar, Nagpur – 440013.

...Applicant

Versus

Guruswamy Naikar and Ors.

...Respondents

AND

CRIMINAL APPLICATION NO. [APPP] 935 OF 2026
IN
CRIMINAL APPLICATION NO. [APPA] 955 OF 2025
IN
CRIMINAL APPEAL STAMP NO. 9957 OF 2025

Partha Sarathy Sarkar
Address - 20, Surana Layout,
Anant-Nagar, Nagpur – 440013.

...Applicant

Versus

Guruswamy Naikar and Ors.

...Respondents

.....

CORAM: NEERAJ P. DHOTE, J.

DATE OF RESERVING THE ORDER : 18.03.2026
DATE OF PRONOUNCING THE ORDER : 08.05.2026

ORDER:-

1. This is an Application for condonation of delay in filing Appeal against the Order dated 25.10.2024 passed by the learned *Ad*

hoc District Judge – 4, Nagpur in Criminal Miscellaneous Application No. 445 of 2023.

2. The Respondent herein had filed the above referred Cr. M.A. No. 445 of 2023 under Section 340 of the Code of Criminal Procedure [hereinafter referred to as 'the *CrPC*'], which came to be allowed by the aforesaid order by the learned Ad hoc District Judge – 4, Nagpur, directing the Superintendent of District Court (Administration), Nagpur, to file Complaint for the offences punishable under Sections 193, 196, 209, 108 and 120-B read with Section 34 of the Indian Penal Code against the Applicants herein and get it verified by the Court and institute the same before a competent Magistrate having jurisdiction.

**APPELLANTS' CONTENTION / CASE IN THE APPLICATION FOR
CONDONATION OF DELAY**

3. The case of the Applicants is that, when the above referred impugned order was passed, Applicant No. 2 – Mr. Neeraj Murgai was working with Applicant No. 1 Company as Senior Manager (Legal Department), and was representing the Company in legal proceedings at the relevant point in time. Thereafter, substantial changes took place in the Management of Applicant No. 1 and, therefore, the Appeal could not be filed within the prescribed limitation period. The Board of Directors passed a Resolution on 12.11.2024 authorizing various other officers and Key Managerial Personnel (KMPs) of Applicant No. 1 Company to

represent the Company, sign and execute various documents and to exercise powers which are more particularly stated in the Resolution. The said Board Resolution expressly authorized Ms. Shweta Bharucha, Company Secretary and Head-Legal to represent Applicant No. 1 Company, to authorize/delegate powers to any other person to represent Applicant No. 1 Company. The said Ms. Shweta Bharucha resides at Mumbai and was pre-occupied in other day-to-day affairs of Applicant No. 1 Company and it was difficult for her to visit Nagpur and to sign and file the Appeal, as well as represent Applicant No. 1 Company in various other proceedings which are pending in Courts at Nagpur. Therefore, in exercise of powers conferred upon her by above-referred Board Resolution, she appointed the present authorized representative of Applicant No. 1, Mr. Guruswami Naikar, to represent Applicant No. 1 Company *vide* authority letter dated 18.02.2025.

4. It is further contended that Applicant No. 1 Company in its Board meeting dated 31.07.2025 passed a Resolution appointing Mr. Guruswamy to represent the Company. Pursuant to such resolution, a Power of Attorney dated 29.08.2025 was also executed by Applicant No.1 Company in favour of Mr. Guruswamy Naikar. Applicant No. 2 Mr. Neeraj Murgai was no longer associated with Applicant No. 1 Company and was pre-occupied with work elsewhere. Applicant No. 2 was unable to travel to Nagpur for the purpose of executing documents and filing the appeal due to personal reasons and work commitments, as

well as because he had lost connection with the respondent's matters. Applicant No. 3, Conjeevaram Baradhwaj, was also no longer associated with the company and was pre-occupied with his personal and professional commitments and was, in fact, unaware of the specifics and details of the impugned order for quite some time and came to know about the same recently. Due to the aforesaid reasons, delay occurred in filing the Appeal. The Appellants/Applicants, Mr. Neeraj Murgai and Conjeevaram Baradhwaj, were dependent on Applicant No.1's personnel for the papers and details of the matter. The substantial changes that had occurred in the applicant no.1's team made the coordination more complex and consumed quite some time contributing to the delay. During this period, the lawyers who were earlier representing the Applicants in legal proceedings at Nagpur also changed. There is multiple litigation pending between Applicant No. 1 Company and Respondent in various Courts at Nagpur and the records of such proceedings are voluminous. The Applicant No. 1 had to arrange for collecting such voluminous records from erstwhile lawyers, engage and brief other lawyers to represent Applicant No. 1 Company in multiple proceedings pending between the parties. The entire process of handover of documents and getting papers of proceedings in order was time consuming and, therefore, the Appeal could not be filed within the prescribed period.

5. It is further contended that the appeal against the aforesaid

order is a statutory right, and the appeal has been filed on various grounds and has a good case on merits. The Applicants had sufficient cause which precluded them from filing the Appeal within the prescribed period of limitation. The reasons for delay are genuine and *bona fide* and the delay of 260 days may be condoned. Grave prejudice would cause to the Applicants if the delay is not condoned and they will lose the right of their valuable Appeal and will have to suffer immense and irreparable injustice flowing therefrom. The delay is neither deliberate nor due to any negligence. No prejudice of any kind would cause to the respondent if the application is allowed. The proceedings cannot be considered adversarial and, therefore, there is no question of causing any prejudice to the respondent.

RESPONDENT'S CONTENTION / CASE

6. The Respondent filed Criminal Application No. 2665 of 2025 in the present Application for condonation of delay with prayers, namely, (i) to direct Respondent No. 1 - Mr. Guruswamy Naikar to provide a complete inventory of proceedings in which he has signed or verified, or affirmed pleadings on behalf of the captioned insurer with particulars of forum, case title/number, and dates, (ii) to hold the respondents i.e. Applicants in the present Application for condonation of delay, in connivance through falsities/misleads and abusing the judicial process sought to mislead this Hon'ble Court in wilfully seeking to

deflect the due administration of justice, (iii) Registrar of the Court may be directed to file a complaint as per Section 382 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), before the learned Magistrate having jurisdiction, (iv) cost/penalty of Rs. 5.00 crore be imposed upon the Respondents, and (v) hold the respondents guilty of to be pursued under contempt jurisdiction in accordance with law.

7. By way of a reply affidavit dated 09.12.2025, it is stated that the averments made in the perjury application are adopted mutatis mutandis as and by way of reply affidavit. It is stated that, grave prejudice will be caused to the respondent *qua* the on-going perjury proceedings in case application for condonation of delay is allowed hitherto replete with falsities. It is further stated that, as a matter of transparency, the Respondent has preferred a petition under Article 227 of the Constitution of India seeking remission of the matter to the learned Magistrate for issuance of process on the legal premise that, the order for issuance of process is not rendered vulnerable prospectively, since the same does not conform to the legal principles laid down in the binding precedents concerning issuance of process. It is stated that, a litigant approaching the court with unclean hands is not entitled to any interim or final reliefs and the application for condonation of delay be dismissed with exemplary costs.

8. In the perjury application, it is stated that, the application

for condonation of delay is replete with deliberate misstatements and misleading averments, calculated to subvert the due course of law and obstruct the lawful consequences flowing from the judicial order passed under Section 340 of CrPC. Any attempt to stifle or delay the consequential process by employing falsehoods/misleads as a shield to condone gross delay, is not only opposed to public justice but also an aggravated perjury proceedings and Sec 2 of Contempt of Courts Act, impinging the majesty of judicial proceedings. Respondent No. 1 - Mr Guruswamy Naikar has sworn Criminal Application No. 955/2025 signed by Respondent No. 7 (advocate) *ex facie* on purported authorisation/instructions of respondent no. 2 and/or 3 and, also purportedly, under instruction/authorisation of respondent nos. 4 and 5. On a *prima facie* appraisal, respondent no. 1 has been interposed merely as a proxy/front-man to prosecute proceedings concerning the Applicant. So as to shield officers of the insurer for perjury/such other offences against whom criminal proceedings stand directed for having misled the court. The status of respondent nos. 2 and 3 is self-explanatory of the cause-title and are arraigned since are the thinking mind of the insurance company who are allegedly instrumental in causing the offence/s raised through the instant application and have used respondent no. 1 as a proxy-frontman for effecting perjurious averments in the application for condonation of delay. Respondent Nos. 4 and 5 are among the ostensible applicants to the Application for

condonation of delay under the affirmation of Respondent No. 1 and under the signature of Respondent No. 7, hence are as much bound by the perjurious averments and by necessary implication are as such liable for being pursued of offences delineated through the instant application. The status of respondent no. 6 was self-explanatory of the cause title and has been arraigned, being a juristic person which can be subjected to fine. Respondent No. 7 was an advocate for Respondent/s and attempting to mislead this court is too apparent on the face of it. The Appeal was filed on 18.11.2025, however, in the application, it is mentioned that the delay is of 260 days. That every advocate being an officer of the court, though appearing for a particular party, is expected to assist the court fairly in carrying out its function to administer the justice.

9. It is further contended that, Reg. C.A. No. 206 of 2023 was an upshot of the captioned insurance company preferring appeal in the court of the learned Ad hoc District Judge -4, Nagpur against the decree/order passed in SCS No. 69 of 2012 by the learned Civil Judge Senior Division, Nagpur, in favour of the applicant in the Perjury Application in July-2023. The Applicant preferred Criminal Miscellaneous Application No. 445 of 2023 under Section 340 of Cr.P.C., which came to be allowed on 25.10.2024. Arising out of the said order, the Complaint No. 345 of 2025 came to be filed on 21.01.2025 before the learned Magistrate and 19th Jt. Civil Judge Junior Division, Nagpur.

On 29.01.2025, the learned Magistrate passed order under Section 223 of the BNSS. The Applicant in Perjury Application impugned the order of the learned Magistrate before this Court and this Court was pleased to remit back the matter to the learned magistrate for conducting the proceedings as per the provisions of the earlier code. The learned Magistrate on 17.10.2025 issued process to the respondent/s under the earlier provisions of the code. The Applicant in the Perjury Application challenged the said order before this Court in Writ Petition No. 900 of 2025 on the ground that it was passed without application of mind and this court issued notice to the respondents therein including the applicants in the application for condonation of delay and the matter was subsequently listed on 05.12.2025 and came to be adjourned to 06.01.2026. Though, as per CMS records, Criminal Appeal [St] No. 9957 of 2025 under Section 341 of Cr.P.C. was filed on 18.11.2025, paragraph 10 of the Application for condonation of delay, suppresses material facts and understates the delay which is approximately 330 days and that falsity goes to the root of the condonation plea and warrants rejection on the ground of manifested dishonesty on the part of the respondents.

10. It is further contended that, Respondent No. 4 was the Senior Manager representing the company in legal proceedings and that due to substantial changes in the management of the company, the Appeal could not be filed within the prescribed period of limitation,

which expired on 24.12.2024. The said assertion is manifestly misleading. The purported change in management had taken place on 27.06.2025 as is clear from the order by the Central Bank. The limitation period for filing appeal had expired six months prior to the alleged management change and thus it was a wilful calculated misrepresentation that an event occurring in the last week of June 2025 prevented the respondent/s from initiating the appeal on or before 24th December, 2024. Filing of appeals within the limitation period is a routine legal function for any ongoing corporation concern, and the plea that such an elementary procedural act was impeded due to managerial transition occurring months later, is *prima facie* wilful perjury.

11. It is further contended that, the erstwhile Advocate was very much representing the Insurance Company before the District Court, Nagpur, so nothing impeded Respondent No. 3 in filing the subject appeal. The averment that Shweta Bharucha was the resident of Mumbai and it was difficult for her to travel to Nagpur to file the appeal within the limitation period or to represent in proceedings in Nagpur, is false/misleading, given the fact that officials of insurance company through their Nagpur based Advocate/s were hitherto in-seriatim filing various proceedings, reply affidavits even affirming them at Mumbai and filing through their advocates of Nagpur. At different stages of proceedings, Respondent No. 1 / alleged front-man has projected himself as service-holder to the insurance company, and at other times,

as an independent businessman. This self-contradictory stance/such shifting claims constitute a calculated strategy to obstruct justice and shield errant company officials from judicial scrutiny. The Insurer's earlier advocate continued to represent them until 05.04.2025 i.e, more than 100 days even after the limitation expired on 24.12.2024. An event occurring three months after expiry cannot, by any logic, explain non-filing within the limitation period. The excuse is thus a misleading justification, and prima facie perjurious. The pleaded change of counsel thus post-dates the expiry of limitation period by around 3 months and a false / misleading narrative is averred for non-filing of subject appeal within time. The debility and suspicious conduct of preferring the present appeal/application for condonation of delay, through an alleged front-man/proxy, namely Respondent No. 1, is corroborated by a Power of Attorney holder with questionable credentials being engaged to depose in the application for condonation of delay, which points to a dishonest, *mala fide* exercise of legal remedy. It is contended that, this is a fit case to direct a preliminary inquiry under Section 379 of BNSS regarding commission of offences affecting administration of justice, and to consider issuance of notice for criminal contempt under the Contempt of Courts Act, 1971 and to dismiss the application for condonation of delay i.e. present application with exemplary cost for abusing the judicial process.

COUNTER BY APPELLANTS

12. The Applicants in the Application for Condonation of Delay filed counter affidavit / rejoinder dated 24.02.2026. It is contended that the counter affidavit / rejoinder was necessitated so as to clarify some of the aspects raised by the Non-applicant/Respondent in the reply and in order to assist this court. In respect of extent of delay, whether 260 days or 330 days, it is contended that, the actual date of filing of the Appeal was 10.09.2025 and, therefore, mention of 260 days delay in the application was correct. The Registry also cross-checked the said aspect and found the delay to be of 260 days. It is further contended that, even if it is assumed that there is some mistake in calculating and stating the quantum of delay, there is no warrant to assume that such statement stems from intentional falsity. The quantum of delay is immaterial and what matters is sufficiency of the cause. The test of sufficient cause is fulfilled. It is contended that the reasons for delay are genuine for the reasons that, although the order under Section 340 was made on 25.10.2024, the complaint was filed only on 29.01.2025. The Applicants had no knowledge of the same and they came to know about it when they received notice of Cri.W.P. No. 900 of 2025 filed by the Non-applicant/Respondent challenging the order issuing process in Complaint No. 345 of 2025. The Applicants' knowledge of the said complaint was after 12.11.2025 when the learned Single Judge of this Court issued notice *vide* order dated 12.11.2025 on Criminal Writ

Petition No. 900 of 2025. As such, limitation for filing this Appeal actually commenced from 29.01.2025 i.e. the date of complaint, and since the applicants' date of knowledge was post 12.11.2025, the applicants' appeal filed earlier itself i.e. on 10.09.2025 cannot be said to be beyond limitation. Assuming that there was delay, still the same ought to be condoned solely for the reason of applicants' not having knowledge of filing of the complaint, all throughout. It is further contended that, the applicants are not benefited from the delay, if any. Similarly, no rights have accrued to the Non-applicant, more so, as Section 340 of CrPC proceedings are essentially between the court and the alleged perjurer. As such, non-applicant is unconcerned with the delay, if any. Non-applicant's opposition to the application for condonation of delay is required to be over-looked. Serious prejudice to Applicant No. 1 – the original first appellant, is *writ large* as the substantive Appeal under Section 96 of the CPC itself has been pre-judged. It is contended that, the delay may be condoned.

RESPONSE BY RESPONDENT TO THE COUNTER

13. In response to Appellants' counter affidavit, the Respondent filed another application, being Criminal Application No. (APPP) 935 of 2026, contending that the averments in the counter affidavit were false, misleading, and incorrect, and there is an introduction of extraneous, dishonest and confusing averments wholly irrelevant to the issues

involved in the present proceedings. He further contended that, the affidavit contained outright perjurious and dishonest pleadings, twisting the known position of law, and prayed for the lodging of a complaint under Section 382 of the BNSS before the learned Magistrate, along with the imposition of costs/penalty of Rs. 5.00 Crore, and the Respondents in the Perjury Applications be held guilty and punished for contempt of courts.

CONSIDERATION

14. Heard the learned Advocate for Applicants/Appellants and the Respondent in-person. They made submissions on the line of the pleadings in their respective Applications. Both the sides relied upon the authorities in support of their respective contentions. The Respondent referred the citations in the Applications for perjury, which are in respect of the perjury proceedings. The primary proceedings before this Court is the Application for condonation of delay in filing the Appeal under Section 341 of the CrPC. Undisputedly, the said provision of the CrPC gives a statutory right of Appeal, and the Appellants have exercised the same by filing the Appeal along with the Application for condonation of delay. The Application for perjury, being an independent application/proceedings, will have to be considered and decided in accordance with law after the Respondents therein are heard and given an opportunity to respond to the applications for perjury. It would be

necessary to examine the existence of *mens rea* or criminal intention behind the act complained of before any action for perjury is recommended. Before setting the criminal law into motion, it becomes essential to come to a conclusion that there is a reasonable foundation for the Charge in respect of which prosecution is directed. Allowing the applications for perjury at this stage would amount to return a finding that the Appellants have committed perjury. Only after the Court finds it expedient and in the interest of justice, the criminal prosecution is to be directed. The legal principles in respect of application for condonation of delay are well settled. On going through the pleadings of the parties referred to above, sufficient cause is shown by the Appellants to condone the delay in preferring the Appeal. The Applications for perjury can be considered along with the Criminal Appeal filed by the Appellants. In this view of the matter, the following order is passed: -

ORDER

- [i] Criminal Application No. 955 of 2025 in Criminal Appeal [St] No. 9957 of 2025 is allowed.
- [ii] The office to register the Appeal.
- [iii] Criminal Application [APPA] No. 2665 of 2025 and Criminal Application [APPP] No. 935 of 2026 will be considered along with the Criminal Appeal [St] No. 9957 of 2025.

**[NEERAJ P. DHOTE]
JUDGE**