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Crl.MP.No.9670 of 2026 in Crl.RC.No.502 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Crl.MP.No.9670 of 2026 in
Crl.RC.No.502 of 2013

N.Raghu, S/o.Natarajan
1/14, Amman Koil Street, Melmenambedu
Vellavedu Post, Thiruvallur District
Vs

Petitioner

The State by Inspector of Police
Vellavedu Police Station
(Cr.No.613 of 2004)

Respondent

Prayer:- This Crl.MP.No.9670 of 2026 is filed, under Section 5 of the Limitation Act, to condone the delay of 2721 days in preferring the restoration petition in Crl.RC.No.502 of 2013.

For Petitioner : Mr.T.Subramanian

For Respondent : Mr.M.Dinesh,
Government Advocate (Criminal Side)

ORDER

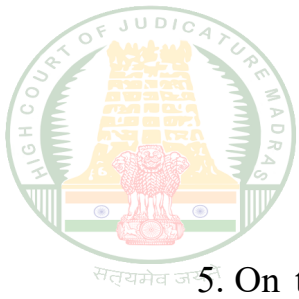
1. This Crl.MP.No.9670 of 2026 is filed, under Section 5 of the Limitation Act, to condone the delay of 2721 days in preferring the restoration petition in Crl.RC.No.502 of 2013.
2. The facts of the case are that the Petitioner had filed the above Criminal



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Revision Case in Crl.RC.No.502 of 2013 to call for the records relating to the order dated, 22.03.2013 passed CA.No.39 of 2012, by the II Additional Sessions Judge, Thiruvallur at Poonamallee, confirming the judgement of conviction and sentence dated 12.04.2012, passed in CC.No.3456 of 2004, by the Judicial Magistrate II, Poonamallee. The said Criminal Revision Case was dismissed by the order dated, 28.09.2018, for non prosecution. Thereafter, the Petitioner has filed the present Civil Miscellaneous Petition to condone the delay of 2721 days, in preferring the restoration petition in Crl.RC.No.502 of 2013.

3. This Court heard Mr.T.Subramanian, the learned counsel for the Petitioner and Mr.M.Dinesh, the learned Government Advocate (Criminal Side) for the Respondent.
4. The learned counsel for the Petitioner submits that the delay of 2721 days in preferring the above restoration petition had occurred due to the facts that since the Petitioner was unable to pay the fees to his counsel, the counsel did not appear before this Court, which resulted in the said Criminal Revision Case, being dismissed for non-prosecution and that the said delay is neither deliberate nor willful and hence, the learned Counsel prays this Court to allow this Petition, by condoning the delay in preferring the restoration petition, in the interest of justice.



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5. On the other hand, the learned Government Advocate (Criminal Side) for the respondent submits that this Civil Miscellaneous Petition filed under Section 5 of the Limitation Act, is, *prima facie*, not legally maintainable and that the reasons assigned by the Petitioner for condoning such an inordinate delay are vague and not valid reasons and hence, this Civil Miscellaneous Petition is liable to be dismissed.
6. This Court has given its careful and anxious consideration to the contentions put forward by the learned counsel for the parties and also perused the entire materials available on record.
7. The matter comes up for consideration of application under Section 5 of the Limitation Act with a prayer for condoning the delay of 2721 days in filing the restoration petition.
8. The standard period of limitation for filing a Petition under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), is 90 days from the date of the impugned order, as stipulated under Article 131 of the Limitation Act, 1963. In the present case, the Criminal Miscellaneous Petition has been filed with a delay of 2721 days. However, under Section 5 of the Limitation Act, 1963, the Court is empowered to condone the delay if the Petitioner is able to demonstrate "sufficient cause" for not preferring the restoration petition within the



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prescribed limitation period. The explanation offered must be reasonable, bona fide, and not indicative of negligence or inaction.

9. In the present case, the reasons assigned by the Petitioner for condoning the delay are that the delay of 2721 days had occurred due to the facts that since the Petitioner was unable to pay the fees to his counsel, the counsel did not appear before this Court, which resulted in the case being dismissed for non-prosecution and that the said delay is neither deliberate nor willful and hence, the learned Counsel prays this Court to allow this Petition, by condoning the delay in preferring the restoration petition, in the interest of justice.

10. After perusal of the records, this Court finds that there is neither a satisfactory explanation nor any valid reasons for condoning the inordinate delay of 2721 days in preferring the restoration petition. Hence, the present Civil Miscellaneous Petition is a time-barred one and cannot be sustained on the ground of laches.

11. The expression “sufficient cause” and satisfactory explanation has been held to receive a liberal construction, so as to advance substantial justice and generally, a delay in preferring a petition may be condoned in the interest of justice, where no gross negligence or deliberate inaction or lack of bona fide is imputable to parties, seeking condonation of delay.



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In the case of **Collector, Land Acquisition Vs. Katiji**, reported in **1987(2) SCC 107**, the Honourable Supreme Court said that when substantial justice and technical considerations are taken 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. The Court further said 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.

12. In the case of **P.K. Ramachandran Vs. State of Kerala**, reported in **AIR 1998 SC 2276**, the Honourable Supreme Court was pleased to observe as under:-

“Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds.”

13. The Rules of limitation are not meant to destroy rights of parties. They virtually take away the remedy. They are meant with the objective that parties should not resort to dilatory tactics and sleep over their rights. They must seek remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The statute relating to limitation determines a life span for such legal remedy



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for redress of the legal injury, one has suffered. Time is precious and the wasted time would never revisit. During efflux of time, newer causes would come up, necessitating newer persons to seek legal remedy by approaching the Courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The statute providing limitation is founded on public policy. It is enshrined in the maxim ***Interest reipublicae up sit finis litium*** (it is for the general welfare that a period be put to litigation). It is for this reason that when an action becomes barred by time, the Court should be slow to ignore delay for the reason that once limitation expires, other party matures his rights on the subject with attainment of finality. Though it cannot be doubted that refusal to condone delay would result in foreclosing the suiter from putting forth his cause but simultaneously the party on the other hand is also entitled to sit and feel carefree after a particular length of time, getting relieved from persistent and continued litigation.

14. There is no presumption that the delay in approaching the Court is always deliberate. No person gains from deliberate delaying a matter by not resorting to take appropriate legal remedy within time but then the words “sufficient cause“ show that delay, if any, occurred, should not be



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deliberate, negligent and due to casual approach of concerned litigant, but, it should be bona fide, and, for the reasons beyond his control, and, in any case should not lack bona fide. If the explanation does not smack of lack of bona fide, the Court should show due consideration to the litigant, but, when there is apparent casual approach on the part of litigant, the approach of Court is also bound to change. Lapse on the part of litigant in approaching Court within time is understandable but a total inaction for long period of delay without any explanation whatsoever and that too in absence of showing any sincere attempt on the part of litigant, would add to his negligence, and would be relevant factor going against him.

15.I need not to burden this judgment with a catena of decisions explaining and laying down as to what should be the approach of Court on construing “sufficient cause“ and it would be suffice to refer a very few of them besides those already referred.

16.In the case of **Shakuntala Devi Jain Vs. Kuntal Kumari, reported, AIR 1969 SC 575**, a three Judge Bench of the Court said that unless want of bona fide of such inaction or negligence as would deprive a party of the protection, the application must not be thrown out or any delay cannot be refused to be condoned.



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17. The Privy Council, in the case of **Brij Indar Singh Vs. Kanshi Ram**

reported in ILR (1918) 45 Cal 94, observed that true guide for a court to exercise the discretion is whether the appellant acted with reasonable diligence in prosecuting the appeal. This principle still holds good inasmuch as the aforesaid decision of Privy Council as repeatedly been referred to, and, recently in **State of Nagaland Vs. Lipok AO and others, AIR 2005 SC 2191**.

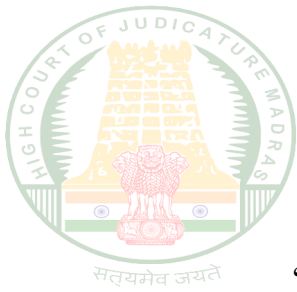
18. In the case of **Vedabai @ Vijayanatabai Baburao Vs. Shantaram**

Baburao Patil and others, reported in JT 2001 (5) SC 608, the Court said that under Section 5 of the Act, 1963, it should adopt a pragmatic approach. A distinction must be made between a case where the delay is inordinate and a case where the delay is of a few days. In the former case consideration of prejudice to the other side will be a relevant factor so the case calls for a more cautious approach but in the latter case no such consideration may arise and such a case deserves a liberal approach. No hard and fast rule can be laid down in this regard and the basic guiding factor is advancement of substantial justice.

19. In the case of **Pundlik Jalam Patil (dead) by LRS. Vs. Executive**

Engineer, Jalgaon Medium Project and Another, reported in (2008)

17 SCC 448, in para 17 of the judgment, the Court said :-



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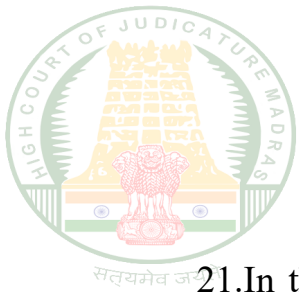


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“...The evidence on record suggests neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and state claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and “do not slumber over their rights.”

20.In the case of **Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai**, reported in **2012 (5) SCC 157**, in para 18 of the judgment, the Court said as under:-

“What needs to be emphasized is that even though a liberal and justice oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the Courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost. What colour the expression “sufficient cause” would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the Court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bonafides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay. In cases involving the State and its agencies/instrumentalities, the Court can take note of the fact that sufficient time is taken in the decision making process but no premium can be given for total lethargy or utter negligence on the part of the officers of the State and / or its agencies/instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the ground of bar of limitation will cause injury to the public interest.”



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21. In this case, after taking into consideration the averments made in the application under Section 5 of the Limitation Act and after hearing the learned counsel for the Petitioner, this Court is not satisfied that the Petitioner has explained the delay in filing the restoration petition.

22. In my view, the kind of explanation rendered herein does not satisfy the observations of the Honourable Supreme Court that if delay has occurred for reasons, which does not smack of mala fide, the Court should be reluctant to refuse condonation. On the contrary, I find that here is a case, which shows complete careless and reckless long delay on the part of the Petitioner, which has remain virtually unexplained at all. Therefore, I do not find any reason to exercise my judicial discretion exercising judiciously so as to justify the condonation of delay in the present case.

23. In the result, in the light of the above said observations and discussions made above and in the light of the decisions referred to above, this Court is of the view that this Civil Miscellaneous Petition, seeking to condone the delay of 2721 days in preferring the restoration petition is liable to be dismissed and accordingly, it is **dismissed**. There is no order as to costs.



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Index: Yes/No

Web: Yes/No

Speaking/Non Speaking

Neutral Citation

Srcm

To:

1. The Inspector of Police, Vellavedu Police Station
2. The Public Prosecutor, Madras High Court, Madras



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SHAMIM AHMED, J.

Srsm

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