



CRL MP(MD)No.1635/2026

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in

CRL A(MD)SR.No.217/2026

N.MALA, J.

This petition has been filed to condone the delay of 409 days in filing the above criminal appeal against the judgement dated 20.09.2024, in Spl.SC.No.24/2023, passed by the learned Sessions Judge [FAC], Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi.

2.The petitioner in the affidavit filed in support of the condone delay petition states that his parents are coolies and they were unable to engage a counsel to file the appeal in time. The petitioner further states that only on the intervention of one of his relatives, steps were taken to engage a counsel and therefore, the delay of 409 days. The petitioner states that the delay was neither wilful nor wanton, but only due to the aforesaid bona fide reasons and hence, prayed for condonation of the delay of 409 days.

3.The respondent filed a detailed counter affidavit, stating that no satisfactory or sufficient cause was shown for the inordinate delay of 409 days. The respondent relied on a few judgments, in support of the the said contention.



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4. Heard the learned counsels on both sides and perused the materials on record.

5. The Hon'ble Supreme Court, vide order dated 02.01.2025, in SLP. [Crl.].No.18045/2024, in the case of ***Mahesh Singh Banzara Vs. State of Madhya Pradesh***, following its earlier judgment, in the case of ***Dilip S.Dahanukar Vs. Kotak Mahindra Co. Ltd [2007 [6] SCC 528]***, held that the right to appeal, particularly, when it concerns the liberty of the individual, is a fundamental right under Article 21 of the Constitution of India and that the High Court, while dismissing the appeal solely on the ground of delay, was bound to examine the reasons for the delay.

6. The petitioner herein, has also stated that due to poverty, she was not able to file the appeal in time.

7. Being satisfied with the reasons stated in the affidavit filed in support of the petition and in view of the aforesaid judgment of the Hon'ble Supreme Court, this Court is of the view that the right to file an appeal being not only a statutory right, but also a constitutional right, the petitioner should be given an opportunity to contest the case on merits. Hence, this Court is inclined to condone the delay so as to give an opportunity to the petitioner to contest the appeal on merits.



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8. Accordingly, the delay of 409 days in filing the criminal appeal is **condoned** and the petition is **ordered**.

9. Registry is directed to number the criminal appeal, if the papers are otherwise in order and list the same for admission.

18.02.2026

AP

Internet: Yes



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