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CRL MP(MD)No.2023/2026

CRL MP(MD)No.2023/2026
in
CRL A(MD)SR.No.3933/2026

N.MALA, J.

This petition has been filed to condone the delay of 915 days in filing the above criminal appeal against the judgement dated 28.02.2023, in Spl.SC.No.115/2021, passed by the learned Sessions Judge, Special Court for Trial of Cases under POCSO Act,

2.The petitioner in the affidavit filed in support of the condone delay petition averred that he belongs to a poor family and with great difficulty, he earned a sum of Rs.3000/- through the Prison industry for engaging a counsel. The petitioner further states that he misplaced the impugned judgment copy and therefore, he engaged an Advocate at Tirunelveli and obtained the certified copy of the judgment. The petitioner states that due to the aforesaid reasons, there was a delay of 915 days in preferring the appeal and it was neither wilful nor wanton, and hence, prayed for condonation of the delay of 915 days.

3.The respondent filed a counter stating that the petitioner had miserably failed to establish any sufficient cause for condoning the



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inordinate delay of 915 days. The respondent further stated that only to protract the proceedings and to evade punishment, the petition was filed and that, the delay is wholly attributable to the petitioner. The respondent therefore stated that if the petition for condonation of delay is ordered, it would cause serious prejudice to the prosecution and hence, prayed for dismissal of the petition.

4. Heard both sides and perused the materials placed 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. The Hon'ble Supreme Court, in the said case, condoned the delay of 1637 days in filing the appeal by accepting the similar reason of lack of monetary resources.



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

7.Being satisfied with the reasons stated in the affidavit and in the light of the aforesaid judgment of the Hon'ble Supreme Court, this Court is inclined to condone the delay of 915 days, giving an opportunity to the petitioner to contest the statutory appeal on merits.

8.Accordingly, the delay of 915 days in filing the criminal appeal is **condoned** and the petition is **ordered**.

19.02.2026

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Internet: Yes



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