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CRL MP(MD)No.2574/2026

CRL MP(MD)No.2574/2026
in
CRL A(MD)SR.No.4228/2026

N.MALA, J.

This petition has been filed to condone the delay of 795 days in filing the above criminal appeal against the judgement dated 04.09.2023, in Spl.SC.No.75/2023, passed by the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur.

2.The petitioner in the affidavit filed in support of the condone delay petition states that pursuant to the judgment of conviction, he has been lodged in the Prison and by saving the prison wages, he has raised funds for paying the professional fees for filing the appeal. The petitioner further 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 795 days.

3.The respondent filed a detailed counter affidavit, stating that no satisfactory or sufficient cause was shown for the inordinate delay of 795 days. The respondent states that the averments made in the petition, are vague and general in nature and no reasonable cause was shown to justify



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the inordinate delay. The respondent states that if the inordinate delay of 795 days is condoned, it will cause serious prejudice to the prosecution.

Hence, the respondent prayed for dismissal of this petition.

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 stated that he engaged a counsel by saving the prison wages and hence, 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



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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.

8. Accordingly, the delay of 795 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.

24.02.2026

AP
Internet: Yes



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