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CRL MP(MD)No.3741/2026

CRL MP(MD)No.3741/2026
in
CRL A(MD)SR.No.4960/2026

N.MALA, J.

This petition has been filed to condone the delay of 107 days in filing the above criminal appeal against the judgement dated 14.08.2025, in Spl.SC.No.2/2017, passed by the learned Sessions Judge, Special Court for POCSO Cases, Kanniyakumari at Nagercoil.

2.The petitioner in the affidavit filed in support of the condone delay petition averred that pursuant to the judgment of the Trial Court on 14.08.2025, he was confined in the Central Prison, Palayamkottai, and therefore, he was unable to engage a counsel in time. The petitioner states that due to the aforesaid reason, there was a delay of 107 days, which delay was neither wilful nor wanton and therefore prayed for condonation of the delay of 107 days.

3.Heard the learned Government Advocate [Crl.Side] for the respondent and perused the materials placed on record.

4.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***



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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.

5. 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.

6. Accordingly, the delay of 107 days in filing the criminal appeal is **condoned** and the petition is **ordered**.

7. Registry is directed to number the criminal appeal, if it is otherwise in order and list the same for admission.

18.02.2026

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Internet: Yes



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