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CRL MP(MD)No.2078/2025

CRL MP(MD)No.2078/2025
in
CRL A(MD)SR.No.42209/2024

N.MALA, J.

This petition has been filed to condone the delay of 1648 days in filing the above criminal appeal against the judgement passed by the learned III Additional District and Sessions Court [PCR], Madurai, in Spl.SC.No. 82/2017 dated 18.04.2018.

2.The petitioners in the affidavit filed in support of the condone delay petition state that pursuant to the judgment passed by the Trial Court, they entrusted the certified copies of the judgment to Mr.J.Sathish Kumar, Advocate, to file the criminal appeal. The petitioners further state that they are working out of station and they came to know that the police officials visited their house. On verification, the petitioners came to understand that no appeal was filed by the erstwhile counsel and on further enquiry, the petitioners found that the erstwhile counsel expired during COVID period. Since the petitioners were not able to obtain the original certified copies, they contacted the counsel who appeared for A1 to A3 and obtained the copy of the judgment from them. The petitioners further state that the delay was neither wilful nor wanton, but only due to the aforesaid bona fide



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reasons and hence, prayed for condonation of the delay of 1648 days.

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3.The respondents filed counter affidavits.

4.The 1st respondent, in his counter, after referring to the facts leading to the conviction and sentencing of the petitioners, submitted that the reasons assigned by the petitioners for the condonation of the delay, were not sufficient. The 1st respondent submitted that the petitioners are bound to explain the delay on day-to-day basis. The 1st respondent further submitted that the petition deserved to be dismissed.

5.The 2nd respondent/defacto complainant in his counter, stated that the entire gamete of the version regarding delay is utterly false, frivolous and untenable. The 2nd respondent stated that the petitioners failed to show any sufficient cause for condonation of the inordinate delay and that the averments in support of the petition, are vague, omnibus and did not sufficiently explain the delay. The defacto complainant therefore prayed for the dismissal of the application.

6.Heard the learned counsels and perused the materials on record.

7.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 csae 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.

8. 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.

9. Accordingly, the delay of 1648 days in filing the criminal appeal is **condoned** and the petition is **ordered**.

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

18.02.2026

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Internet: Yes



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