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CRL.M.P(MD)No.18919 of 2025
in
CRL.A(MD)SR.NO.76713 of 2025

N.MALA,J

This Petition is filed to condone the delay of 239 days in preferring the above Criminal Appeal as against the judgment of conviction rendered in S.C.No.174 of 2021, dated 30.1.2025, on the file of IIIrd Additional Sessions Court cum Mahila Court, Tirunelveli.

2.The Petitioner was charge-sheeted for the offence under Sections 294(b), 448, 307 and 506(ii) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act before the learned Judicial Magistrate, Ambasamudram and the same was taken on file in P.R.C.No.2 of 2021. After conclusion of committal proceedings, the said case was forwarded to the Principal Sessions Court, Tirunelveli and the same was taken on file in S.C.No.174 of 2021. Thereafter, the case was forwarded to the file of III Additional Sessions Court cum Mahila Court, Tirunelveli.

3.After completion of trial, on 30.01.2025, the above said Court found the Petitioner guilty for the offence under Section 448



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of IPC and sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.500/-, in default, to undergo two weeks simple imprisonment, the Petitioner was found guilty under Section 307 IPC(2 counts) and sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.1000/-, in default, to undergo one month simple imprisonment in each counts. The said Court also convicted the Petitioner for the offence under Section 506(ii)IPC and sentenced to undergo one year rigorous imprisonment, in default, to undergo one month simple imprisonment and acquitted the Petitioner from the charges under Section 294(b) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and the sentence were ordered to run concurrently. Aggrieved by the aforesaid conviction and sentence, the Petitioner filed the Criminal Appeal before this Court. The petitioner states that due to poverty and illiteracy, he was unable to communicate his counsel to file the appeal in time and after coming to know about the process of free legal aid, he has filed the present Criminal appeal through his legal aid counsel and in that process, the delay of 239 days in preferring the Criminal Appeal occurred.

4.The Hon'ble Supreme Court, vide order dated 02.01.2025,



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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 not only a fundamental right, but it is a constitutional 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.

5.The petitioner herein, has also stated that he did not have the requisite monetary consideration to engage an independent counsel and so was constrained to file the appeal through the legal aid counsel.

6.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 239 days and to give an opportunity to the petitioner to contest the statutory



appeal on merits.

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7. Accordingly, the delay of 239 days in filing the criminal appeal is condoned and the petition is allowed. The Registry is directed to number the criminal appeal if it is otherwise in order and post it for admission in the usual course.

08.01.2026

vsn



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N.MALA.,J

vsn

ORDER MADE IN
C.M.P(MD)No.18919 of 2025
in
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08.01.2026