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CRL MP(MD)No.19467/2025

CRL MP(MD)No.19467/2025
in
CRL A(MD)SR.No.81413/2025

N.MALA, J.

This petition has been filed to condone the delay of 128 days in filing the above criminal appeal against the judgement dated 16.07.2024, in CC.No.1291/2022, passed by the learned Additional District Judge, I Additional Special Court for NDPS Act Cases, Madurai,

2.The petitioner in the better affidavit filed in support of the condone delay petition states that pursuant to the judgment of conviction, she was confined at the Special Prison for Women, Central Prison, Madurai and hence, she was not able to contact her advocate to file the appeal in time. The petitioner further states that since her husband was also convicted in the above said case and was confined in the prison, she was not able to mobilise funds for filing the appeal. The petitioner 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 128 days.

3.The respondent filed a detailed counter affidavit, stating that no satisfactory or sufficient cause was shown for the inordinate delay of 128



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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 the inordinate delay. The respondent further states that the reasons assigned by the petitioner are devoid of merits and appear to be an afterthought. The respondent states that if the inordinate delay of 128 days is condoned, it will cause serious prejudice to the prosecution. The respondent further states that the Hon'ble Supreme Court and this Court have repeatedly held that liberal condonation of delay cannot be extended to cases where negligence, inaction or lack of diligence on the part of the petitioner is evident. The respondent states that the petitioner is a habitual offender and has got seven previous cases of similar in nature.

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



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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 also stated that due to poverty, she 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 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 128 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.

23.02.2026

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