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CRL MP(MD)No.19388/2025

CRL MP(MD)No.19388/2025
in
CRL A(MD)SR.No.81902/2025

N.MALA, J.

This petition has been filed to condone the delay of 480 days in filing the above criminal appeal against the judgement dated 21.09.2022, in Spl.SC.No.97/2023, passed by the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Theni.

2.The case of the prosecution in brief was that the victim girl, daughter of PW4-Pandiyan and A2-Nagajothi, was sexually assaulted by the petitioner, since he had illegal intimacy with A2, mother of the victim girl. Hence, a case was registered in Crime No.14/2022, for the offences under Section 376[2] of IPC and under Sections 3 r/w 4[2], 5[j][ii], 5[n], 6 and 7 of the POCSO Act, 2012. The case was taken up on file by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under the POCSO Act, Theni, in Spl.SC.No.97/2023, and by judgment dated 20.05.2024, the petitioner was convicted and sentenced as follows:-



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Sl.No.	Conviction under Section	Sentence imposed
1	376AB of IPC	To undergo RI for 20 years, to pay a fine of Rs.5,000/- and in default, to undergo SI for 1 year.
2	5[j][ii] r/w 6 of POCSO Act	To undergo RI for 20 years, to pay a fine of Rs.5,000/- and in default, to undergo SI for 1 year.

3. Aggrieved by the aforesaid conviction and sentence, the petitioner has preferred the above appeal along with the petition to condone the delay of 480 days.

4. The petitioner in the affidavit filed in support of the condone delay petition stated that he entrusted the papers to a close friend of him for engaging a counsel, but no steps were taken by his friend and therefore, he informed his family members to file the appeal and in the process, there was a delay of 480 days in preferring the appeal by the petitioner. The petitioner further stated that the delay was neither wilful nor wanton, but due to the aforesaid *bona fide* reasons, and therefore prayed for condonation of the delay of 480 days.



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

6. 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.

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.



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8. Accordingly, the delay of 480 days in filing the criminal appeal is **condoned** and the petition is **ordered**.

02.02.2026

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