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CRL MP(MD)No.140/2026

CRL MP(MD)No.140/2026
in
CRL A(MD)SR.No.85436/2025

N.MALA, J.

This petition has been filed to condone the delay of 402 days in filing the above criminal appeal against the judgement dated 10.09.2024, in Spl.SC.No.58/2018, passed by the learned Sessions Judge, [FAC], Special Court for Exclusive Trial of Cases under POCSO Act, Kanyakumari District at Nagercoil.

2.The case of the prosecution in brief is that on 18.10.2018, at about 6.45 p.m., when PW10, took the victim girl, a physically challenged child, along with other children to the temple situate near the bus stop, the petitioner, taking advantage of the victim's physical disablement, committed sexual assault on her. A case was registered in Crime No.49/2018 for the offences under Section 9[k] read with Section 10 and under Section 9[m] read with Section 10 of the POCSO Act, 2012 and was taken up on file by the learned Sessions Judge, [FAC], Special Court for Exclusive Trial of Cases under POCSO Act, at Nagercoil, in Spl.SC.No.58/2018, and vide judgment dated 10.09.2024, the petitioner was convicted



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and sentenced as follows:-

<i>Sl.No.</i>	<i>Conviction under Section</i>	<i>Sentence imposed</i>
1	9[k] read with 10 of POCSO Act	To undergo RI for 5 years, to pay a fine of Rs.10,000/- and in default, to undergo SI for 6 months.
2	9[m] read with 10 of POCSO Act	To undergo RI for 5 years, to pay a fine of Rs.10,000/- and in default, to undergo SI for 6 months.

3. Aggrieved by the aforesaid conviction and sentence, the petitioner has preferred the above appeal along with the petition to condone the delay of 402 days.

4. The petitioner in the affidavit filed in support of the condone delay petition states that due to economic constraints, his family was not in a position to file the criminal appeal in time and therefore, the delay of 402 days in preferring the appeal by the petitioner. The petitioner further states that the delay was neither wilful nor wanton and hence, prayed that the delay of 402 days in filing the above appeal may be condoned.

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



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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. 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.

7.The petitioner herein, has also stated that due to economic constraints, he was not able to file the appeal in time.

8.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 402 days, giving an opportunity to the petitioner to contest the statutory appeal on merits.



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9. Accordingly, the delay of 402 days in filing the criminal appeal is **condoned** and the petition is **ordered**.

27.01.2026

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