2026:AHC:211009

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 36273 of 2024

Varun Tyagi

.....Applicant(s)

Versus

State Of U.P. And 5 Others

.....Opposite Party(s)

Counsel for Applicant(s)	:	Ratnesh Kumar Shukla, Shikhar Tandon, Sunder Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 73

HON'BLE DR. GAUTAM CHOWDHARY, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material brought on record.

2. The instant petition under Section 482 Cr.P.C. has been filed for quashing of the order dated 13.08.2024 passed by Additional Session Judge, Court No. 16, Ghaziabad in Criminal Misc. Appeal No. 57 of 2024, Varun Tyagi Vs. State, whereby application No. 3-Kha filed under Section 5 of the Limitation Act in support of the appeal filed under Section 18 of U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986, has been rejected.

3. Learned counsel for the applicant submits that on being implication of the applicant in Case Crime No. 922 of 2021, under Section 2/3 of U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986,(hereinafter referred to as the, 'Act'), a police report dated 25.12.2021 was furnished and after approval proceedings under Section 14(1) of the Act for attachment has been initiated against the applicant along with other accused persons, without serving him any notice. Thereafter, five cars in the name of applicant were attached vide order dated 07.01.2022, without serving any copy of the said order.

4. Learned counsel further submits that initially the applicant was in judicial custody, and after his release, he fell ill, on account of which his father could not approach the court concerned for de-attaching of the property. He further submits that the impugned attachment order has been

passed in violation of sections 14, 15 & 16 of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Rules, 2021. Without prior notice to the applicant, the attachment cannot be held valid in the spirit of the Act. Being aggrieved the applicant filed an appeal under Section 18 of the Act along with the delay condonation application under Section 5 of the Limitation Act, which has been rejected by the Additional Sessions Judge by the impugned order, stating therein that the appeal is barred by more than two years, which delay has not been satisfactorily explained by the applicant. It is submitted that admittedly, there is a delay of more than two years in filing the appeal as the applicant was not aware of the attachment order passed on 07.01.2022, and no notices or summons were issued to the applicant at the time of the attachment order. Therefore, the said delay has been caused. It is also submitted that the conduct of the applicant is bonafide who has been deprived of her property owing to involvement in the proceedings of Gangster Act, wrongfully, against which delay condonation application filed in support of the appeal has illegally been rejected on technical grounds. Thus, instant petition may be allowed and the order impugned passed by the trial court may be quashed being illegal and unwarranted under the law.

5. Per contra, learned A.G.A. has contended that the applicant had full knowledge about the attachment order passed against him. The said appeal was filed after an inordinate delay of more than two years, thus, the learned trial court has rightly declined to condone the delay.

6. Having considered the rival submissions advanced by learned counsel for the parties and perusal of record, it is manifested that learned trial court has rejected the delay condonation application on the ground that the delay caused in filing the appeal has not been satisfactorily explained. The applicant in his delay condonation application (Annexure-3) states that as the applicant was not aware of the attachment order passed on 7.1.2022 and no notices or summons were issued to the applicant at the time of the attachment order. Therefore, the said delay has been caused.

7. In the matter of delay court should conscious and make endeavour to do complete justice to both the parties appearing before it. It is settled law that all Courts of law are established for furtherance of interest of

substantial justice and not to obstruct the same on technicalities. Reference- *Jai Jai Ram Manohar Lal Vs. National Building Material Supply; AIR 1969 SC 1267*, wherein it has been held that the substantial justice and technicalities, if pitted against each other, the cause of substantial justice should not be defeated on technicalities. No procedure in a Court of law should be allowed to defeat the cause of substantial justice on some technicalities. *(Reference - Ghanshyam Dass & Ors. Vs. Dominion of India & Ors., AIR (1984) 3 SCC 46)*.

8. Apart from that, in a recent judgment of **Bhivchandra Shankar More vs. Balu Gangaram More & Ors (decided by Hon'ble Supreme Court on 07.05.2019), reported in 2019(6) SCC 387**, it is expounded that in condoning the delay "sufficient cause" should be given liberal construction so as to advance substantial justice. The relevant paragraph nos. 15 and 16 of the aforesaid judgment are being quoted herein below:-

> "15. It is a fairly well settled law that "sufficient cause" should be given liberal construction so as to advance sustainable justice when there is no inaction, no negligence nor want of bonafide could be imputable to the appellant. After referring to various judgments, in B. Madhuri, this Court held as under:-
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> > "16. The expression "sufficient cause" used in Section 5 of the Limitation Act, 1963 and other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which serves the ends of justice. No hard-and-fast rule has been or can be laid down for deciding the applications for condonation of delay but over the years courts have repeatedly observed that a liberal approach needs to be adopted in such matters so that substantive rights of the parties are not defeated only on the ground of delay."

9. Observing that the rules of limitation are not meant to destroy the rights of the parties, in *N. Balakrishnan v. M. Krishnamurthy (1998) 7 SCC 123*, this Court held as under:-

> "11. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts.
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> So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time." As pointed out earlier, an appeal under Section 96 CPC is a statutory right. Generally, delays in preferring appeals are required to be condoned, in the interest of justice, where there is no gross negligence or deliberate inaction or lack of bonafide is imputable to the party seeking condonation of delay."

10. In this conspectus as discussed above, I am of the considered view that learned trial court has illegally denied to extend the benefit under Section 5 of the Limitation Act and rejected the delay condonation application. The applicant has been deprived of from an adequate opportunity of hearing in appeal which has been filed by the applicant against the attachment order. There is no proper application of judicial mind while rejecting the condonation application filed on behalf of the applicant. Delay in filing the appeal is liable to be condoned and the condonation application is liable to be allowed, as well. The order under challenge is illegal, unwarranted and infirm under the law, which is liable to be quashed.

11. Resultantly, the present application filed under Section 482 Cr.P.C. is **allowed**. The impugned order dated 13.08.2024 passed by Additional Session Judge, Court No. 16, Ghaziabad in Criminal Misc. Appeal No. 57 of 2024, Varun Tyagi Vs. State, dismissing the delay condonation application moved on behalf of the applicant under Section 5 of Limitation Act is hereby quashed. The said delay condonation application is allowed and the said appeal, is restored to its original number and the same shall be decided afresh in accordance with law after giving opportunity of hearing to the parties concerned.

12. The applicant is directed to appear before the court concerned and move an appropriate application, along with the certified copy of order of this order within one month from today.

(Dr. Gautam Chowdhary,J.)

October 6, 2026
Mustaqeem./C.P.Sahani

Digitally signed by :-
MOHD MUSTAQEEM KHAN
High Court of Judicature at Allahabad