



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 286/2025

Saurendra S/o Sh. Bajrang Lal, Aged About 27 Years, R/o
Jabrasar, Teh. Nohar Dist. Hanumangarh.

-----Petitioner

Versus

1. Bhugani W/o Sh. Surendra D/o Om Prakash, Aged About 25 Years, R/o Jabrasar, At Present Sirangsar, Teh. Nohar Dist. Hanumangarh.
2. Karuna @ Dropadi D/o Surendra, Minor- Through Her Natural Guardian Mother Bhugani W/o Surendra R/o Jabrasar, At Present Sirangsar, Teh. Nohar Dist. Hanumangarh.

-----Respondents

For Petitioner(s) : Mr. G.R. Bhari

For Respondent(s) :

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Order

03/03/2025

Instant revision petition has been filed by the petitioner husband challenging the order dated 29.01.2025 passed by learned Additional Sessions Judge No.1, Nohar in Criminal appeal No. 15/2025 whereby, the learned Judge dismissed the appeal on the ground of delay.

Learned counsel for the petitioner husband submits that the learned appellate court has committed an error of law in dismissing the appeal on the ground of delay. It is submitted that the petitioner works as a labourer outside the State and he was not informed about the order by his lawyer. As soon as the



petitioner came to know about the order, the petitioner filed the appeal against the judgment of trial court dated 18.07.2023. Thus, the delay caused in filing the appeal was purely bonafide, therefore, the impugned order dated 29.01.2025 passed by learned Additional Sessions Judge No.1, Nohar, District Hanumangarh may be quashed and set aside.

Heard the learned counsel for the petitioner and perused the impugned orders as well as material available on record.

Section 5 of the Limitation Act, 1963 is reproduced hereinunder for our reference:

"5. Extension of prescribed period in certain cases.—Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.—The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section."

A court's principle duties are to resolve disputes between parties and achieve substantial justice. The purpose of limiting rules is 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. In accordance with widely accepted principles, Section 5 grants the courts discretion over jurisdiction. The term "sufficient cause" is to be interpreted liberally to promote substantial justice in cases where the appellant cannot be held accountable for any negligence, inaction, or lack of *bonafides*. In



the case of **N. Balakrishnan vs. m. Krishnamurthy** Reported in **1998 (7) SCC 123** the Hon'ble Apex Court has observed that:-

"It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court."

The Hon'ble Supreme Court in the case of **Pathupati Subba Reddy (Died) by L.Rs. & Ors. v. The Special Deputy Collector (LA) [2024] 4 S.C.R. 241** has observed as under:

"16. Generally, the courts have adopted a very liberal approach in construing the phrase 'sufficient cause' used in Section 5 of the Limitation Act in order to condone the delay to enable the courts to do substantial justice and to apply law in a meaningful manner which subserves the ends of justice. In Collector, Land Acquisition, Anantnag and Ors. vs. Katiji and Ors.², this Court in advocating the liberal approach in condoning the delay for 'sufficient cause' held that ordinarily a litigant does not





stand to benefit by lodging an appeal late; it is not necessary to explain every day's delay in filing the appeal; and since sometimes refusal to condone delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted in condoning the delay, existence of 'sufficient cause' for not filing the appeal in time, is a condition precedent for exercising the discretionary power to condone the delay. The phrases 'liberal approach', 'justice-oriented approach' and cause for the advancement of 'substantial justice' cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act.

17. It must always be borne in mind that while construing 'sufficient cause' in deciding application under Section 5 of the Act, that on the expiry of the period of limitation prescribed for filing an appeal, substantive right in favour of a decree-holder accrues and this right ought not to be lightly disturbed. The decree-holder treats the decree to be binding with the lapse of time and may proceed on such assumption creating new rights.

18. This Court as far back in 1962 in the case of Ramlal, Motilal And Chhotelal vs. Rewa Coalfields Ltd has emphasized that even after sufficient cause has been shown by a party for not filing an appeal within time, the said party is not entitled to the condonation of delay as excusing the delay is the discretionary jurisdiction vested with the court. The court, despite establishment of a 'sufficient cause' for various reasons, may refuse to condone the delay depending upon the bona fides of the party.

23. In Basawaraj and Anr. vs. Special Land Acquisition Officer, this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression



'sufficient cause' as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds."



In the case of **Harish & Anr. Vs Rajasthan Board of Muslim waqf** decided on 09.03.2017 by the co-ordinate bench of this Court, it has been observed that:

"7. It is to be noticed that while levelling an allegation against the counsel in not informing the petitioner regarding the order passed by the Estate Officer, there is no explanation set out as to why the petitioners did not contact the counsel for the period of 5½ years. A litigant should be vigilant enough and should keep himself informed about the pending proceedings and therefore, the bald assertions on the part of the petitioner that the counsel did not inform about the disposal of the matter, cannot be considered to be a plausible explanation for condonation of inordinate delay in filing the petition."

The relevant para from the case of **Hussain Vs. Om Prakash (supra)** is reproduced as under:

"9. While construing Section 5 of the Limitation Act, it is relevant to bear in mind two important considerations. The first consideration is that the expiration of period of limitation prescribed for laying an appeal gives rise a right in favour of the decree holder to treat the decree as binding between parties. In other words, on expiry of prescribed period of limitation the decree holder acquires a benefit under law of limitation to construe the decree as beyond challenge, and this legal right which has accrued to the decree holder by lapse of time should not be light



heartedly disturbed. The other consideration, which is to be kept in mind by the Court is that if sufficient cause for excusing delay is shown by the party, Court in its discretion may condone the delay. It is needless to emphasize here that even after sufficient cause has been shown by a party, it is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the Court by Section 5 of the Limitation Act. Thus, the application under Section 5 of the Act deserves rejection.”

In the case of **Gauri Shankar vs Ram Sahay (supra)**, the

Court has held that:

“8.Therefore, if the appellant has chosen not to approach the counsel for inquiry about the progress of the case, it is his own sweet will and he cannot now turn around and rely on the said so called default on part of the Advocate for seeking condonation of delay.”

Admittedly, the order of maintenance was passed by the trial court on 18.07.2023 and the petitioner filed an appeal against the said order of maintenance along with application under Section 5 of the Limitation Act in the year 2025. Thus, the appeal was barred by two and half years.

The learned appellate court while dismissing the appeal has observed that the petitioner has given the reason for delay that his lawyer did not inform about the order dated 18.07.2023, which seems to be an excuse for filing an appeal to save himself from execution proceedings. Thus, the petitioner has failed to give any legitimate explanation for the delay caused in the filing of the appeal.

The law states that if a case is presented beyond limitation, the applicant must explain the “sufficient cause” for the delay. It is





against the legislative intent and the specific language of the Act to excuse tardiness in such cases. It is not appropriate to excuse the delay only on the grounds that the applicant did not have due knowledge of the decision passed by the court below. It is noteworthy that no justification for the petitioner's failure to ask the status of his case from the counsel is provided. Hence, the applicant's bald claims that his lawyer did not inform him about the order, cannot be taken seriously as a reasonable justification for the excessive delay in filing the appeal. Therefore, this Court does not find any error in the impugned appellate order. The appellate court has rightly dismissed the appeal on limitation.

Consequently, the revision petition being bereft of any merit is hereby dismissed.

(MANOJ KUMAR GARG),J

32-BJSH/-