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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 28.08. 2025***

+ CRL.M.C. 7213/2023 and CRL.M.A. 26913/2023

TRIBHUVAN SINGH @ PAWAN KUMAR SINGH

.....Petitioner

Through: Ms. Nandita Rao, Senior Advocate with Mr. Akhand Pratap Singh, Ms. Samridhi Dobhal, Mr. Krishna Mohan Chandel, Mr. Hritwik Maurya, Mr. Mayank Kaushik and Mr. Aashrit Sukhija, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Sanjeev Sabharwal, APP for the State with Inspector Sumit, Special Cell/ SR, Saket, Delhi.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

J U D G M E N T (O R A L)

1. The petitioner herein, an under trial for alleged offences under sections 387, 506, 420, 467, 468, and 471 of IPC, assails an order dated 19.07.2023 passed by the learned Revision Court whereby Additional Sessions Judge dismissed the revision petition on the ground of limitation, declining to condone a delay of 930 days. The



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revision petition in turn was filed to challenge orders dated 10.04.2015, *vide* which the application for discharge was dismissed, and 01.10.2015 *vide* which charges were framed by the Ld. CMM under Section 387, 506, 420, 467, 468, and 471 of IPC, New Delhi in criminal proceedings arising out of FIR No. 69/07 originally under section 384, 506 and 34 of IPC, registered at PS Special Cell, Delhi

2. First the brief background, shorn of unnecessary details, leading to filing of the instant petition.

2.1. The petitioner/revisionist moved an application under Section 5 of the Limitation Act seeking condonation of 930 days' delay in filing a revision petition against the orders, *ibid* passed by the Ld. CMM, New Delhi in criminal proceedings arising out of FIR No. 69/07. It was urged that the delay occurred as another connected case under MCOCA (FIR No. 10/13) was pending before higher courts, and the outcome of those proceedings would directly impact the present matter. The applicant further submitted that he was also in continuous custody in Uttar Pradesh jails, which aggravated his inability to file the revision petition within the prescribed time.

2.2. On the other hand, the prosecution/State opposed the application, contending that no sufficient or justified cause was shown for such inordinate delay. That nothing prevented the applicant from filing the revision petition within the limitation period, and the plea of awaiting the outcome of other proceedings was not a valid ground to approaching the revision court belatedly.



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2.3. Upholding the objection of the prosecution, the learned Sessions/Revision court thus dismissed the revision petition as being barred by limitation.

3. In this backdrop, I have heard the rival contentions and perused the case file including the order assailed herein.

4. Assailing the impugned order Ms. Nandita Rao, learned senior would inter alia argue that :-

4.1 The matter was earlier transferred to the Court of the Ld. ASJ, Patiala House Courts, New Delhi, where it was tagged with the MCOCA case. It was, therefore, understood that both matters were intrinsically interconnected and litigation had to be pursued jointly. The petitioner and co-accused accordingly filed an application for discharge, contending that no case under MCOCA was made out. Upon hearing both sides, the Ld. ASJ, Patiala House Courts, vide order dated 04.02.2014, discharged the petitioner and co-accused from MCOCA. Subsequently, by order dated 20.02.2014, the Ld. ASJ returned the present case to the Court of the Ld. CMM, Patiala House Courts, New Delhi, for trial.

4.2 The prosecution, being dissatisfied, preferred an appeal before this Court. However, vide judgment dated 16.05.2015 in Criminal Appeal No. 358/2014, this court dismissed the appeal and upheld the discharge of the petitioner and co-accused. The State further challenged the said order before the Supreme Court of India, but the challenge was once again rejected vide an order/judgment dated 09.10.2017 in CrI. Appeal No. 1750/2017.



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4.3 She would point out that the Supreme Court categorically observed that a close reading of the FIR and charge sheet in FIR No. 69/2007 disclosed no criminal activity pertaining to organised crime within Delhi, and that the complaint had been filed at Delhi only with the object of invoking MCOCA.

4.4 Due to the aforesaid pendency of the SLP before the Supreme Court, the accused in their prudence were prevented from filing a revision against the order framing charge. Meanwhile, the Ld. CMM, Patiala House Courts, proceeded to hear arguments on charge. By order dated 10.04.2015, the Ld. CMM dismissed the discharge application and thereafter framed charges under Sections 387, 506, 420, 467, 468 and 471 IPC vide order dated 01.10.2015 in FIR No. 69/2007, P.S. Special Cell. At the relevant time, the petitioner was in continuous custody and remains confined in Mirzapur Jail, Uttar Pradesh. His co-accused Brijesh Singh, on the other hand, challenged the said order passed by CMM qua him in Criminal Revision No.103/2017 which was instituted in 2017 on 22.12.2017 and succeeded on 27.02.2018.

4.5 As regards the petitioners herein, in December 2016, he was shifted from Pilibhit Jail to Mirzapur Jail. As a consequence, he was not produced before the Ld. CMM in the present case and was unable to communicate or issue instructions to his counsel.

4.6 Later on, aggrieved by the order framing charges, the petitioner filed the criminal revision, though belatedly, due to circumstances beyond his control as explained above and not deliberately.



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4.7 The learned Revision court adopted discriminatory approach as it condoned a delay of 721 days in filing of co-accused Criminal Revision Petition No. 103/2017 titled Brijesh Singh vs. State, but dismissed the revision petition of the petitioner herein on the ground of limitation. Not only that after condoning the delay, the Ld. ASJ by an order dated 27.02.2018, set aside the order on charge and the framing of charge qua accused Brijesh Singh in the present FIR under Sections 397 and 401 IPC. The State's challenge against the revision order has also been dismissed vide an order dated 26.03.2025 in Criminal Revision Petition no. 440/2018, recently passed by a Coordinate Bench of this Court.

4.8 Learned counsel for the petitioner would rely on *Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & Ors., (2013) 12 SCC 649*, arguing that as per principles for condonation of delay, enunciated therein, instant petition be allowed. She argues that liberal, pragmatic and justice-oriented approach must be adopted by condoning undue technicalities, and substantial justice must prevail over procedural rigidity.

4.9 Summing up the arguments, the learned senior would thus urge that the impugned order dated 19.07.2023 is unjustified and deserves to be set aside, especially as the petitioner has a strong case for discharge. If the same is not set aside, it would cause grave miscarriage of justice to the petitioner.

5. Learned APP for the State strenuously argues that investigation revealed the co-accused, Brijesh Singh, and the petitioner to be



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notorious criminals from Eastern Uttar Pradesh, involved in multiple cases of murder, attempt to murder, and other serious offences.

5.1. He further submits that the petitioner filed the revision petition only on 25.09.2018 before the Court of Ld. AS challenging the impugned orders dated 10.04.2015 and 01.10.2015 passed by the Ld. CMM. The revision petition was thus rightly dismissed on 19.07.2023, with the finding that there existed no sufficient ground to condone the inordinate delay of 930 days.

5.2. The Learned APP contends that the reasons cited by the petitioner for condonation of delay were wholly untenable and that nothing prevented him from filing the revision petition within the prescribed limitation period. Accordingly, the present petition, too, deserves dismissal.

6. I shall now proceed to render my opinion giving reasons in succeeding part.

7. At the outset, before proceeding any further, pertinent it is to note that learned Revision court rightly observed in the impugned order herein that, though under Article 131 of the Limitation Act, the limitation for filing a revision is 90 days, but Section 5 empowers the court to condone delay if sufficient cause is shown. It also observed, and again in my view too, rightly, that condonation depends on the facts of each case, and absence of negligence or mala fides would normally tilt the balance towards allowing such applications.

8. Notwithstanding, aforesaid observations, the Revision court eventually held that the pendency of proceedings in another case (FIR No. 10/13, PS Special Cell) could not be treated as a valid ground for



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not filing the present revision petition. No stay was since granted by the superior court, and even after the dismissal of the SLP by the Hon'ble Supreme Court on 09.10.2017, the revisionist delayed filing the revision petition until 25.09.2018. This showed that the delay could not be justified on the ground of awaiting the outcome of the other case, as the revisionist still failed to act within the limitation period even after the conclusion of those proceedings.

8.1 The learned Revision court also rejected the plea that the revisionist was in judicial custody. It was held that he was attending the trial court proceedings and was fully aware of the charges framed against him, which he himself signed.

8.2 Thus, the learned Sessions court found no sufficient or bona fide explanation for condoning the delay of 930 days.

9. On a court query, it transpires that indeed similarly situated co-accused of the petitioner i.e. Brijesh Singh had also approached the learned Sessions Court belatedly to file the revision petition, wherein also owing to similar facts circumstances and the grounds pleaded in his application, delay of around 650 days was condoned. Further, it turns that said order of condonation of delay was not challenged by the prosecution.

10. Mr. Sanjeev Sabharwal, learned APP appearing on behalf of the non-petitioner/prosecution, in fact, fairly does not dispute the aforesaid position.

11. In the premise, petitioner being similarly situated, I am of the opinion that he ought to be also given the benefit as accorded to his co-accused.



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12. The learned Revision court adopted self contradictory approach with double standard yardstick with two of the similarly placed accused, in as much as, statedly it condoned a delay of 721 days in filing Revision Petition No. 103/2017 titled Brijesh Singh vs. State but declined 930 days qua petitioner. The petitioner, who stands on the very same footing is not in dispute, but yet it declined to accept his application for condonation of delay. The inconsistent approach, without any rational basis, defeats the principle of parity and uniformity in judicial decision-making. Besides, the same resulted in grave prejudice to the petitioner. When delay is beyond control for peculiar reasons which are sufficiently explained, as noted above in the arguments of the learned senior, denial to entertain the revision petition would amount to taking away/forfeiting the statutory right of petitioner to invoke revision jurisdiction and be heard on merits.

13. Moreover, even otherwise, apart from parity, I am in agreement with the arguments, as noted in the preceding part, canvassed by the learned senior counsel for the petitioner.

14. It is not disputed that the case was initially tagged with the MCOCA matter before the Ld. ASJ, Patiala House Courts, where the petitioner and co-accused were discharged from MCOCA on 04.02.2014. The prosecution's appeal was dismissed by the High Court on 16.05.2015 and later by the Supreme Court on 09.10.2017, which held that no organised crime within Delhi was disclosed. During pendency of the SLP, the Ld. CMM proceeded with charges and, by orders dated 10.04.2015 and 01.10.2015, dismissed the discharge plea and framed charges under IPC provisions. The co-



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accused successfully challenged this in 2018, while the petitioner, being in continuous custody and shifted between jails, could not pursue his remedy timely.

15. Accordingly, the petition is allowed. Impugned order is set aside and application of the petitioner seeking delay of 930 days in filing the revision petition is allowed. Petitioner is at liberty to file a fresh revision petition. Effective today, if it is filed as per the limitation period provided in Entry 131 of the Schedule of the Limitation Act, 1963, the same shall be heard on merits.

16. The petition is disposed of accordingly.

ARUN MONGA, J

AUGUST 28, 2025/kd