



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

% **Reserved on: 20th November, 2025**

Pronounced on: 08th December, 2025

+ **CRL.L.P. 498/2017**

CENTRAL BUREAU OF INVESTIGATION

CBI Head Office Building
5-B, CGO Complex, Lodhi Road,
New Delhi-110003

.....Petitioner

Through: Mr. Atul Guleria, SPP with Mr.
Aryan Rakesh and Mr. Prashant
Upadhyay, Advocates.

versus

RAKESH KUMAR

Son of Sh. Krishan Ballabh Sharma
R/o Khasra No.420, H.No. 3,
Laxmi Vihar, Burrari, Delhi

Permanent Add: VPO Mehus, Distt. Shekhpur, Bihar.....Respondent

Through: Mr. R.K. Handu, Ms. Adivi Ajmera
and Mr. Manoranjan, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

CRL.M.A. 14210/2017 (Condonation of delay)

1. Application under Section 5 of the Limitation Act, 1963, has been filed on behalf of the **CBI/Petitioner** for condonation of delay in filing the accompanying Appeal to challenge the **Order/Judgment dated 02.12.2016** of acquittal passed by the learned Special Judge, CBI, Tis Hazari Courts in CBI Case No. RC No. 11(A)/2013/CBI/ACB CC No. 07/2015.

2. The **case of the Prosecution** was that the Complainant, Sh. Brijesh Garg had purchased a HIG Flat at No. 118, B Block, Sector-29, Rohini,



Delhi, in the name of his wife, namely, Smt. Rekha Garg and had submitted sale and purchase documents before the Registrar VI-B. Subsequently, he received a Notice dated 26.02.2013 from SDM, Alipur to meet the SDM within seven days of receipt of the Letter, as there was short payment of stamp duty in the said purchase. The Complainant approached the SDM, Alipur but was directed to meet the Naib Tehsildar, Alipur, in this regard.

3. He met Rakesh Kumar/Naib Tehsildar, the Accused, who told him that there was a shortage of Rs.38,000/- in the Stamp Duty and that he may have to pay a penalty upto Rs.3,80,000/-, apart from the short stamp duty. The Accused further told the Complainant that it was in the discretion of SDM, to reduce the amount of penalty and that he would get it reduced to the tune of Rs.1 Lakh, for which he demanded a bribe of Rs.50,000/- from the Complainant.

4. The verification of the allegations was made from the independent witnesses in whose presence bribe had been demanded by the Accused, Rakesh Kumar. *On the basis of the verification, the RC-DAI-2013-A-011 was registered.*

5. Thereafter, a trap was laid by the Inspector Sh. Bhagwan on 08.03.2013 along with a CBI Team in the presence of two independent witnesses, namely, Mr. Som Nath Luthra and Mr. Harvinder Singh. The Complainant gave Rs.40,000/- against the demand of Rs.50,000/-, which was accepted by the Accused in the presence of shadow witness, Mr. Som Nath Luthra. After accepting the bribe amount, the Accused/Rakesh Kumar rushed towards the first floor where he was apprehended by the trap team. Thereafter, the hand wash of both right and left hand as well as the wash of



the left side pant pocket of the Accused, was taken in the solution of sodium carbonate, which *turned pink*.

6. **The bribe amount could not be recovered and the Accused disclosed that he had thrown the money as he feared something against him. The thorough search of the area, also did not yield any result.**

7. On completion of the investigations, the **Charge-Sheet** under Section 7 and 13(2) read with Section (1)(d) of the Prevention of Corruption Act, 1988 (*hereinafter referred to as "PC Act"*), was filed.

8. The Prosecution led **14 witnesses** in support of its case.

9. The Statement of the Accused was recorded under Section 313 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C'*) where he denied all the incriminating evidence. He examined 8 witnesses in his defence.

10. The learned Special Judge, CBI, Tis Hazari Court in his Judgment dated 02.12.2016 noted the material contradictions in the statement of the members of the raid team and observed that *there was no recovery of the bribe amount*. The CCTV camera installed in the Office would have recorded the alleged payment of bribe, but the CCTV footage was intentionally not collected during the investigations despite there being evidence adduced by the Prosecution witnesses showing that there was CCTV cameras installed outside the office in the veranda as well as the staircase and the entire area was covered by the CCTV footage. It was also observed that the Phenolphthalein Test was not a conclusive proof of the commission of the offence. *The benefit of doubt was, therefore, given to the Accused and he was acquitted.*



11. *Aggrieved by the said acquittal, the Appeal has been filed by CBI. This Appeal is supported with an Application under Section 5 of the Limitation Act, for condonation of delay in filing said Appeal.*

12. It is submitted that the certified copy of the Judgment dated 02.12.2016 was obtained after which, the legal opinion was obtained on 27.12.2017, from the Prosecutor/CBI. The matter was then referred to Senior Public Prosecutor for the advice in regard to the filing of the Appeal, which was given on 03.01.2017. *Thereafter, the matter for filing of Appeal was processed at various levels before Senior Officers for getting their views/opinion from 04.01.2017 to 23.04.2017.* The CBI vide its Letter dated 24.07.2017, sought permission from DoPT for filing of the Appeal. The legal opinion from Ministry of Law and Justice was obtained on 08.05.2017 after which DoPT gave its consent on 09.05.2017.

13. After getting the approval, the matter was entrusted to the SPP, CBI for preparation of the Appeal. The drafting of the Appeal and vetting of the same by CBI at different levels and obtaining the approval from the Competent Officer took some time, after which the Appeal got preferred. *It is submitted that the limitation period expired on 15.03.2017 and there is a delay of 124 days in filing the Appeal, which may be condoned.*

14. The **Respondent/Accused in his detailed Reply** has asserted that the Applicant/CBI fails to disclose as to when the certified copy was supplied and when was it received. There is no calculation with regard to the actual date of delay. Pertinently, while in the body of Application delay of 124 days is mentioned, it is stated as 108 days in the prayer paragraph. Therefore, there is no exact calculation of the number of days by which the accompanying Appeal has been delayed.



15. It is also stated that the Applicant has given the reason for delay as involvement of various Departments at various levels, but it does not fall within the ambit of sufficient cause as envisaged under Section 5 of the Limitation Act.

16. Reliance is placed on the case of Office of the Chief Post Master General and Ors. vs. Living Media India Ltd. & Anr. (2012) 3 SCC 563; State (NCT of Delhi) vs. Dheeraj (CRL.L.P. 589/2017) (decided on 11th October, 2017); State vs. Harihar, 2016 SCC OnLine Del 2354: (2016) 230 DLT (CN A) 12 (DB); State NCT of Delhi vs. Eliazer Kindo @ Anup in CRL.L.P. 322/2017, decided on 24th May, 2017; Amardeep & Others vs. State of Delhi & Anr. in CRL.REV.P. 573/2014 & CrI. MA 14417/2014 (stay) & CrI. MA 14420/2014, decided on 14 January 2015; Inder Industries v. Gemco Electrical Industries, 147 (2008) DLT 305; Sow.Kamaibai w/o Narasaiyya Shrimai and Narsaiyya s/o Sayanna Shrimai vs. Ganpat S/o Vithalrao Gavare, 2007(1)MhLJ 807; Municipal Corporation of Delhi vs Vasudev Sharma, MANU/DE/0540/2005 and Union of India vs. Kameshwar Dubey, MANU/DE/2954/2005; Ran Singh and Others vs. Union of India and Others, MANU/DE/8526/2006; Raghunath Singh and Others vs. Chander Krishan Mahajan and Another, 1993(2) Rent Law Reporter; Union of India and others vs. C.L. Jain Woolen Mills Pvt. Ltd., 2006 V AD (Delhi) 718; Delhi Wakf Board vs. Sh. Baibir Singh, (RFA No.80/82), decided on 20th March, 2006; Ramial and others vs. Rewa Coalfields Ltd., AIR 1962 SC 361; Sanjeev Babbar and others vs. M/s Dev Papers Pvt. Ltd., Vol.CXVIII (1998-1); P.K. Ramchandran vs. State of Kerala and another, JT, 1997 (8) SC 189; State vs. Azad Singh in CrI. MA No. 1674 of 2014 (for delay) & CRL.L.P.89/2014, decided on 31 January 2014.



17. It is, therefore, submitted that there is no cogent reason for condonation of delay and *the present Application along with the Criminal Leave to Appeal be dismissed.*

Submissions heard and the record perused.

18. From the rival contentions made by the parties and from the record, it emerges that the Judgment was delivered on 02.12.2016 and the accompanying Appeal has been preferred on 03.07.2017. The limitation for filing an Appeal is three months which implies that the time for filing the Appeal, expired on 02.03.2017. According to the Respondent, the certified copy was prepared on 27.12.2016 and sometime was taken in getting the certified copy.

19. The question is *whether there was any cogent explanation given in the Application.*

20. The only ground given in the Application for Condonation of Delay is that the delay in filing the Criminal Leave to Appeal, was on account of procedural formalities required to be fulfilled by the Petitioner Department, which entails multiple Departmental approvals at various levels, which cumulatively led to a delay of about **124 days**.

21. It is evident that a special privilege has been claimed by CBI, purely and merely on the ground of being a Government Department wherein approvals have been required at various levels which took some time.

22. This aspect was considered in the case of Living Media (India) Ltd., (supra) by the Apex Court wherein it was observed that there cannot be a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of any plausible and acceptable explanation, the delay cannot be condoned



mechanically merely because the Government or a wing of the Government, is a party before the Court.

23. It was further observed that while in the matter of condonation of delay when there is no gross negligence or deliberate inaction or lack of *bona fides*, a liberal concession has to be adopted to advance substantial justice, *but the Department cannot take advantage of various earlier decisions*. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes, cannot be accepted in view of the modern technologies now available. The law of limitation undoubtedly binds everybody including the Government. Unless there is some *reasonable and acceptable explanation for the delay* and *bona fide effort is spelled out in the Application*, such usual explanation that the file was pending for several months due to degree of procedural red tape in the process, cannot be accepted merely because it is a Government agency. They are under a special obligation to ensure that they perform their duties with diligence and commitment. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering that there was no proper explanation offered by the Department for the delay, it was held that they had miserably failed to give any cogent reasons sufficient to condone the delay and the Appeal was dismissed.

24. It would also be pertinent to refer to the observations made by the Apex Court in the case of *State of M.P. vs. Bherulal*, (2020) 10 SCC 654 wherein it was held that the Apex Court has on earlier occasions as well, deprecated the practice and process of completing the formality to save the skin of the officers who may be at default. The irony is that in none of the cases any action was taken against the Officers, who sit on the files and do



nothing under the presumption that the Court would condone the delay. Therefore, it was concluded that *where there is inordinate delay by the Government or the State Authorities in filing the matters before the Court, they must pay for wastage of judicial time, which has its own value.*

25. Similar observations have been made in the various Judgments, which have been cited by the Petitioner. The gravamen of the observations is that if there is any cogent *bona fide* explanation, the same can be accepted but when the conduct reflects a lackadaisical approach and no sincere efforts are made for filing of the Appeal within time, such delay is not condonable.

26. In the present case as well, such mechanical explanations of delay due to departmental procedures, therefore, cannot be termed as *sufficient reasons* to explain the delay. Merely because an Application has been filed for condonation of delay without giving any cogent or sustainable reasons, this Application of the Petitioner/CBI, does not merit any indulgence.

27. The Application under Section of the 5 Limitation Act for condonation of delay in filing the Leave to Appeal, is hereby **dismissed**.

28. The Leave to Appeal along with the Appeal and the pending Applications are disposed of, accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMEBER 08, 2025/RS