



2025:DHC:5252



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 04.07.2025*+ **CRL.REV.P. 456/2024**

STATE

.....Petitioner

Through: Mr. Manoj Pant, APP for the
State with SI Pinki, P.S.
Sultanpuri and SI Rahul Garg,
P.S. Roop Nagar, Delhi

versus

YOGESH @ GOLU & ANR.

.....Respondents

Through: Mr. Ripin Sood and Mr.
Yashovir Singh, Advocates.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J****CRL.M.A. 10595/2024 (delay of 325 days)**

1. The State has, by way of the above-captioned revision petition, assailed the order dated 30.01.2023, passed by the learned Additional Sessions Judge-02, Central District, Tis Hazari Courts, Delhi [hereafter '*Sessions Court*'], in case arising out of FIR No. 102/2022, registered on 21.02.2022 at Police Station Roop Nagar, Delhi, for offence punishable under Sections 308/341/506/34 of the Indian Penal Code, 1860 [hereafter '*IPC*'] and Sections 3(1)(r)/3(1)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 [hereafter '*SC&ST Act*']. By way of the impugned order, the



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learned Sessions Court discharged the respondents for offence under Section 308 of IPC and framed charges for offence under Section 323/341/506/34 of IPC and Sections 3(1)(r)/3(1)(s)/3(2)(va) of SC&ST Act.

2. However, the present application under Section 5 of the Limitation Act, 1963 read with Section 482 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'] has been filed, seeking condonation of delay of 325 days in filing the present revision petition.

3. On the issue of condonation of delay, the learned APP for the State submitted that the present petition could not be filed within the stipulated period as the certified copy of the impugned judgment was obtained on 15.02.2023, and thereafter, the file was sent to the concerned department for its opinion on filing a revision on 27.02.2023. It was submitted that on 21.04.2023, the competent authority took the decision to file the revision petition based on the merits of the case. Subsequently, the file was marked to the present Additional Public Prosecutor for the State on 26.04.2023. However, since certain documents from the trial court record were missing from the file, the original paper-book was requisitioned from the concerned Investigating Officer through the *pairvi* officer on 04.05.2023, and the same was received on 19.09.2023. Thereafter, some time was taken to get the annexures translated, and the affidavits along with the draft petition were sent to the concerned DCP for signature in October–November 2023, which were eventually received on



02.04.2024.

4. The learned APP for the State argued that due to the above-mentioned circumstances, administrative formalities, and the movement of the file from one table to another, the prescribed limitation period expired, resulting in a delay in filing the present petition. It was contended that the delay was neither deliberate nor intentional, and thus, deserves to be condoned in the interest of justice. In support of this argument, reliance was placed on the following decisions: (i) *Sheo Raj Singh v. Union of India*: (2023) 10 SCC 531; and (ii) *State of Nagaland v. Lipok Ao*: (2005) 3 SCC 752.

5. On the other hand, the learned counsel appearing on behalf of the respondents/accused opposed the prayer made in the present application. He argued that there was no plausible or sufficient reason shown by the State for such inordinate delay in preferring the present petition. It is also submitted that the contents of the present application itself reveal the inactiveness on the part of officials concerned, and thus, the delay ought not to be condoned.

6. This Court has **heard** arguments addressed on behalf of both the parties, and has perused the material placed on record.

7. Upon considering the submissions made by the learned counsel for the parties and after examining the material on record, this Court finds it necessary to reiterate that the Hon'ble Supreme Court, as well as this Court, has consistently held that mere fact of the petitioner being a State is not, by itself, a ground to condone delay.



Condonation of delay cannot be claimed as a matter of right, and a day-to-day explanation must be provided where the delay is considerable. Guided by this settled legal position, the delay of 325 days in filing the present petition is sought to be explained by the State on the basis of the following sequence of events:

1. **15.02.2023** – Certified copy of the impugned judgment was obtained.
 2. **27.02.2023** – The file was forwarded to the concerned department to seek opinion on filing a revision petition.
 3. **21.04.2023** – Decision was taken by the competent authority to file the revision based on the merits of the case.
 4. **26.04.2023** – The file was marked to the present Additional Public Prosecutor for necessary drafting.
 5. **04.05.2023** – Due to missing documents in the trial court record, the original paper-book was called for from the Investigating Officer through the *pairvi* officer.
 6. **19.09.2023** – The original paper-book was received.
 7. **October–November 2023** – Time was consumed in translating annexures and completing requisite formalities.
 8. **02.04.2024** – The affidavits and petition draft were received back from the concerned DCP with signatures, completing the documentation for filing.
8. The State has therefore attributed the delay primarily to administrative formalities, movement of the file between departments, and time taken for obtaining and compiling relevant



documents.

9. This Court notes that the Hon'ble Supreme Court in *Sheo Raj Singh v. Union of India* (*supra*) emphasized that the power to condone delay is discretionary in nature and must be exercised based on the adequacy and credibility of the explanation offered. It was further observed that the length of the delay is not as material as the sufficiency of the cause shown for such delay. While affirming the High Court's decision to condone a delay of 479 days in an appeal filed by the State, the Hon'ble Supreme Court observed as under:

“37. Having bestowed serious consideration to the rival contentions, we feel that the High Court's decision to condone the delay on account of the first Respondent's inability to present the appeal within time, for the reasons assigned therein, does not suffer from any error warranting interference. As the aforementioned judgments have shown, such an exercise of discretion does, at times, call for a liberal and justice- oriented approach by the Courts, where certain leeway could be provided to the State. The hidden forces that are at work in preventing an appeal by the State being presented within the prescribed period of limitation so as not to allow a higher court to pronounce upon the legality and validity of an order of a lower court and thereby secure unholy gains, can hardly be ignored. Impediments in the working of the grand scheme of governmental functions have to be removed by taking a pragmatic view on balancing of the competing interests.”

10. While adjudicating this application, this Court also remains cognizant of the fact that the present revision petition assails the order on charge, vide which the respondents herein have been discharged for commission of offence under Section 308 of IPC, and the primary allegations against them were that the respondents herein had physically assaulted the victim with bricks, and had hit the brick



on his head and face with the intention of killing him.

11. In this background, this Court is also conscious of the fact that in cases involving serious offences, the rights of the victim and their family are equally significant and cannot be overlooked. Victims, particularly those belonging to marginalized or economically weaker sections of society, often lack the means or resources to pursue independent legal remedies and instead rely on the State machinery to seek justice on their behalf. When the State delays in challenging orders which may adversely affect the victim's case, such as an order of discharge, it is not merely a procedural lapse but a setback to the victim's pursuit of justice. Such delay may, in effect, prejudice the victim's right to a fair and complete adjudication of the allegations, eroding their faith in the system meant to protect them. Therefore, the Courts must remain sensitive to this dimension while adjudicating applications for condonation of delay in criminal cases involving serious offences.

12. In view of the foregoing discussion, and while ensuring a fair balance between the rights of the accused to defend the impugned order and the right of the State to seek judicial scrutiny of a discharge order passed in a case involving the grave offence of murder, this Court deems it appropriate to exercise its discretion in favour of the State. The accused shall, at the appropriate stage, have ample opportunity to contest the revision petition on merits. However, considering the explanation offered for the delay of 325 days, the nature of the offence involved, and the larger interest of justice and



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society in ensuring that allegations of heinous crimes are subjected to proper adjudication, this Court finds sufficient cause to condone the delay in filing the present revision petition.

13. In view thereof, the delay of 325 days in filing the present revision petition stands condoned. Accordingly, the present application stands disposed of.

14. It is however clarified that the observations made in this order shall not be construed as this Court's opinion on the merits of the case.

15. Before parting, this Court finds it necessary to observe, and caution, that repeated instances of inordinate delays on the part of the State in filing appeals or revision petitions have become a matter of serious concern. While courts may, in appropriate cases, adopt a liberal approach while condoning such delays, this cannot become a shield for systemic apathy or bureaucratic inefficiency. The administration of criminal justice cannot afford to be prejudiced by avoidable procedural lapses or lack of diligence on the part of those entrusted with ensuring timely legal action. Let a copy of this order be sent to the Director of Prosecution, GNCTD, who is directed to examine the circumstances leading to delays in filing of appeals/petitions and take appropriate steps to prevent recurrence of the same in future. The State must ensure that institutional mechanisms are strengthened to track, monitor, and file appeals, revisions, etc. within the prescribed limitation period, and every



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stakeholder – from the Investigating Officer to the Prosecutor to the administrative departments – discharges their role with a sense of responsibility and within a clearly defined time frame. Only then can the larger objective of ensuring timely justice and maintaining public confidence in the criminal justice system be fulfilled.

16. A copy of this order be forwarded to the Secretary (Law), Department of Law, Justice and Legislative Affairs, GNCTD, by the Registry within two working days.

17. The State shall form an appropriate policy in this regard, and the same shall be placed before this Court within a period of **one month** from date of the receipt of this order.

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18. Issue notice. Mr. Ripin Sood, learned counsel accepts notice on behalf of the respondents.

19. Let reply be filed by the respondents within four weeks, with advance copy to the other side.

20. List on 28.10.2025 for final disposal.

21. In the meantime, let the Trial Court Record in digitized form be called for, at least two days prior to the next date of hearing.

22. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 04, 2025/ns