



2025:DHC:9357



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 27.10.2025*+ **CRL.REV.P. 151/2007, CRL.M.A. 30660/2023 & CRL.M.A. 30661/2023**

ABDUL HAMEED REHMANI

.....Petitioner

Through: Mr. RK Handoo, Advocate.

versus

CBI

.....Respondent

Through: Mr. Ripudaman Bhardwaj,
SPP with Mr. Kushagra
Kumar, Mr. Abhinav
Bhardwaj and Mr. Amit
Kumar Rana, Advocates.**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J****CRL.M.A. 30661/2023 (condonation of delay)**

1. The applicant, Mohammad Rehmani, by way of the present application, seeks condonation of delay of 3621 days, in filing an application for his impleadment as the legal heir of late Abdul Hameed Rehmani (CRL.M.A. 30660/2023), in order to pursue the above-captioned petition.

2. The facts and events relevant for deciding the present application are as follows. An FIR bearing number RC-8(E)/2005/EOW-II/DLI was registered by the Central Bureau of



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Investigation (CBI) on 29.06.2005 on the complaint of the Deputy Secretary, FCRA, Ministry of Home Affairs, alleging that the association Abul Kalam Azad Islamic Awakening Centre [hereafter '*the Centre*'] and its President Abdul Hameed Rahmani, had violated provisions of the Foreign Contribution (Regulation) Act, 1976 [hereafter '*FCRA*']. It was alleged that during the period 1993–1997, the Centre had received foreign contributions in multiple bank accounts, including one maintained in Saudi Arabia, without disclosure to or approval from the competent authority. The investigation revealed that the accused had opened and operated several undisclosed bank accounts and had received substantial foreign remittances therein. These accounts were not declared to the FCRA Division, MHA, in contravention of Section 6(1)(b) of the FCRA and related Rules. It was further found that a sum of about ₹9 crores had been transferred from Saudi Arabia to the Centre's designated account in India in June 2002, and that penalties imposed earlier under Foreign Exchange Regulation Act, 1973 [hereafter '*FERA*'] by the Directorate of Enforcement [hereafter '*DoE*'] had been paid from the Centre's funds. The CBI concluded that both the Centre and its office-bearers had utilised foreign contributions in violation of Sections 6(1)(b) and 4(3)(i) of the FCRA, punishable under Section 23 thereof.

3. Accordingly, a charge-sheet was filed by the CBI on 25.04.2006 against the petitioner Abdul Hameed Rahmani and the Centre. The learned Magistrate, *vide* order dated 11.12.2006, framed



charges under Sections 6(1)(b) and 4(3)(i) of the FCRA. Aggrieved thereby, the petitioner Abdul Hameed Rahmani preferred the present revision petition (CRL.REV.P. 151/2007) before this Court, while the Centre filed a connected revision petition (CRL.REV.P. 152/2007).

4. In the meantime, it had also transpired that the DoE had issued a Show Cause Notice on 12.06.2001 to the Centre and its President Abdul Hameed Rahmani for alleged contravention of Sections 8(1) and 14 of FERA, pursuant to which an adjudication order dated 08.02.2002 was passed imposing a penalty of ₹2 lakhs each on them under Section 50 of FERA. The said order was later challenged by the DoE through a revision petition under Section 52(4) of FERA read with Sections 19(6) and 49(4) of FEMA, 1999, which was disposed of by the learned Appellate Tribunal on 24.07.2007, quashing the earlier adjudication order and remanding the matter for fresh adjudication. Aggrieved thereby, both the Centre and Abdul Hameed Rahmani preferred separate appeals before this Court under Section 35 of FEMA read with Section 54 of FERA, being CRL.A. 700/2007 and CRL.A. 701/2007, respectively.

5. The revision petitions (CRL.REV.P. 151 and 152 of 2007) were listed for hearing on 15.03.2007, when an interim order staying the trial court proceedings was passed by this Court. The matter was then listed on several occasions and the interim order was continued each time.

6. On the other hand, the above-noted appeal i.e. CRL.A. 701/2007, also filed by the petitioner herein, was listed before this



Court for the first time on 06.11.2007, when notice was issued. Thereafter, on 22.02.2008, an interim order was granted in favour of the appellant, which was subsequently made absolute on 01.04.2009, and the said appeal (along with CRL.A. 700/2007) was directed to be listed in the category of '*regular matters as per their own turn*'.

7. In the present case, on 21.02.2013, this Court observed that the revision petitions required consideration, and since the connected appeals (CRL.A. 700/2007 and 701/2007) involving a similar issue were already pending adjudication and were placed in the category of 'regular matters', it was considered appropriate to list these revision petitions in the same category. On the same day, the interim order of stay was also made absolute. Thereafter, on 29.07.2013, the revision petitions (including the present one i.e. CRL.REV.P. 151/2007) were directed to be listed in '*due course*'.

8. Consequently, the above-mentioned appeals were not taken up for hearing after 01.04.2009, and the revision petitions, including present one, were not taken up after 29.07.2013.

9. Unfortunately, on 20.08.2013, the petitioner, Abdul Hameed Rahmani, passed away.

10. The learned Magistrate in the present case was intimated about the death of the petitioner *vide* an application dated 21.11.2013.

11. It was only after about 13 years that the appeal preferred by the present petitioner (CRL.A. 701/2007) was listed again on 14.03.2022, when notice was issued to the counsel for both sides for 27.05.2022;



however, the matter continued to remain in the '*regular matters*' category and was not taken up thereafter.

12. However, the present revision petition preferred by the petitioner, i.e. CRL.REV.P. 151/2007, was taken up for hearing after a long interval of ten years, on 17.08.2023.

13. According to the applicant, once these matters were taken up again for hearing by this Court, he became aware of the pendency of the present petition filed by his late father, and accordingly decided to pursue it by filing an application for his impleadment as legal heir of the deceased petitioner. Along with the said application, he also filed the present application seeking condonation of delay in moving the impleadment application.

14. A reply was filed on behalf of the CBI to the application seeking impleadment of legal heir and condonation of delay in filing the same, wherein it is contended that the impleadment application has been filed after an inordinate and unexplained delay of 3621 days, without any reason or circumstance being shown that could remotely justify such extraordinary delay. It has been argued that the application deserves to be dismissed on the ground of delay and laches itself, and also for the reason that nothing survives in the present petition as the petitioner has already passed away.

15. The learned counsel appearing for the applicant, on the other hand, has argued that the matter had been placed in the '*regulars*' category after tagging it with connected appeals in July, 2013, and the petition was taken up for hearing only in August, 2023. It is



contended that the counsel had then contacted the Centre and informed it about the hearing of the case, and it was only then that the applicant, Mohammad Rehmani, came to know about the pendency of the present petition filed by his father. Immediately thereafter, in October, 2023, he filed the application for impleadment, along with a prayer for condonation of delay – made out of abundant caution from the date of his father’s death.

16. This Court has **heard** arguments addressed on behalf of the applicant as well as the CBI, and has perused the record.

17. Insofar as the general law relating to substitution of legal representatives of plaintiffs or defendants in civil suits is concerned, the same is governed by Order XXII of the Code of Civil Procedure, 1908, read with Articles 120 and 121 of the Limitation Act, 1963. Under these provisions, an application for substitution is required to be filed within 90 days of the death of the party concerned. If it is not filed within that period, the applicant must then seek to set aside the abatement within the next 60 days. Where even that is delayed, the applicant is required to move applications for substitution and for setting aside abatement, accompanied by an application for condonation of delay in filing the latter. This legal position has been clarified by the Hon’ble Supreme Court in ***Om Prakash Gupta v. Satish Chandra***: 2025 SCC OnLine SC 291, by way of following observations:

“11. Rule 1 of Order XXII, CPC provides that when a party to a suit passes away, the suit will not abate if the right to sue survives. In instances where the right to sue does survive, the procedure for



bringing on record the legal representative(s) of the plaintiff/appellant and the defendant/respondent are provided in Rules 3 and 4, respectively, of Order XXII. The suit/appeal automatically abates when an application to substitute the legal representative(s) of the deceased party is not filed within the prescribed limitation period of 90 days from the date of death, as stipulated by Article 120 of the Limitation Act, 1963. It could well be so that death of a defendant/respondent is not made known to the plaintiff/appellant within 90 days, being the period of limitation. Does it mean that the suit or appeal will not abate? The answer in view of the scheme of Order XXII cannot be in the negative. In the event the plaintiff/appellant derives knowledge of death immediately after the suit/appeal has abated, the remedy available is to file an application seeking setting aside of the abatement, the limitation wherefor is stipulated in Article 121 and which allows a period of 60 days. Therefore, between the 91st and the 150th day after the death, one has to file an application for setting aside the abatement. On the 151st day, this remedy becomes time-barred; consequently, any application seeking to set aside the abatement must then be accompanied by a request contained in an application for condonation of delay under Section 5 of the Limitation Act in filing the application for setting aside the abatement. Thus, the total time-frame for filing an application for substitution and for setting aside abatement, as outlined in Articles 120 and 121 of the Limitation Act, is 150 (90 + 60) days. The question of condonation of delay, through an application under Section 5 of the Limitation Act, arises only after this period and not on the 91st day when the suit/appeal abates. From our limited experience on the bench of this Court, we have found it somewhat of a frequent occurrence that after abatement of the suit and after the 150th day of death, an application is filed for condonation of delay in filing the application for substitution but not an application seeking condonation of delay in filing the application for setting aside the abatement. The proper sequence to be followed, therefore, is an application for substitution within 90 days of death and if not filed, to file an application for setting aside the abatement within 60 days and if that too is not filed, to file the requisite applications for substitution and setting aside the abatement with an accompanying application for condonation of delay in filing the latter application, i.e., the application for setting aside the abatement. Once the court is satisfied that sufficient cause prevented the plaintiff/appellant from applying for setting aside the abatement within the period of limitation and orders accordingly, comes the question of setting the abatement. That happens as a matter of course and following the order for substitution of the deceased defendant/respondent, the suit/appeal regains its earlier position and would proceed for a trial/hearing on merits. Be that as it may.”



18. The Code of Criminal Procedure, 1973, on the other hand, contains its own provisions dealing with the substitution of legal representatives in criminal proceedings. For instance, Section 394 provides for abatement of appeals, and sub-section (2) specifically stipulates that where the appeal is against a conviction and sentence of death or imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may – within thirty days of his death – apply to the appellate court for leave to continue the appeal; and if such leave is granted, the appeal shall not abate. Any application filed beyond this period of thirty days has to be accompanied by an application under Section 5 of the Limitation Act seeking condonation of delay.

19. However, there is no such specific stipulation under Section 397 of Cr.P.C., which deals with the revisionary jurisdiction of the Court. Neither is there any specific provision for abatement of petition nor about filing of application for impleadment of legal representatives. But in this regard, it would be apposite to take note of the decision of the Constitution Bench of the Hon'ble Supreme Court in *Pranab Kumar Mitra v. State of West Bengal: 1958 SCC OnLine SC 79*, wherein it was held as under:

“6. In our opinion, in the absence of statutory provisions, in terms applying to an application in revision, as there are those in Section 431 in respect of criminal appeals, the High Court has the power to pass such orders as to it may seem fit and proper, in exercise of its revisional jurisdiction vested in it by Section 439 of the Code. Indeed, it is a discretionary power which has to be exercised in aid of justice. Whether or not the High Court will exercise its revisional jurisdiction in a given case, must depend upon the facts and



circumstances of that case. The revisional powers of the High Court vested in it by Section 439 of the Code, read with Section 435, do not create any right in the litigant, but only conserve the power of the High Court to see that justice is done in accordance with the recognized rules of criminal jurisprudence, and that subordinate Criminal Courts do not exceed their jurisdiction, or abuse their powers vested in them by the Code. On the other hand, as already indicated, a right of appeal is a statutory right which has got to be recognized by the courts, and the right to appeal, where one exists, cannot be denied in exercise of the discretionary power even of the High Court. The legislature has, therefore, specifically provided, by Section 431 of the Code, the rules governing the right of substitution in case of death of an appellant, but there is no corresponding provision in Chapter XXXII, dealing with the question of abatement and the right of substitution in a criminal revision. We may assume that the legislature was aware of the decision of the Bombay High Court, referred to above, when it enacted Section 431 for the first time in the Code of 1882. If the legislature intended that an application in revision pending in a High Court, should be dealt with on the same footing as a pending appeal, it would have enacted accordingly. But in the absence of any such enactment, we may infer that the power of revision vested in the High Court under Chapter XXXII of the Code, was left untouched - to be exercised according to the exigencies of each case. **The High Court is not bound to entertain an application in revision, or having entertained one, to order substitution in every case. It is not bound the other way, namely, to treat a pending application in revision as having abated by reason of the fact that there was a composite sentence of imprisonment and fine, as some of the Single Judge decisions placed before us, would seem to indicate. The High Court has been left complete discretion to deal with a pending matter on the death of the petitioner in accordance with the requirements of justice.** The petitioner in the High Court may have been an accused person who has been convicted and sentenced, or he may have been a complainant who may have been directed under Section 250 of the Code to pay compensation to an accused person upon his discharge or acquittal. **Whether it was an accused person or it was a complainant who has moved the High Court in its revisional jurisdiction, if the High Court has issued a rule, that rule has to be heard and determined in accordance with law, whether or not the petitioner in the High Court is alive or dead, or whether he is represented in**



court by a legal practitioner. In hearing and determining cases under Section 439 of the Code, the High Court discharges its statutory function of supervising the administration of justice on the criminal side. Hence, the considerations applying to abatement of an appeal, may not apply to the case of revisional applications. In our opinion, therefore, the Bombay majority decision, in the absence of any statutory provisions in respect of criminal revisional cases, lays down the correct approach.”

(Emphasis added)

20. Similarly, a Three-judge Bench of the Hon’ble Supreme Court in *State of Kerala v. Narayani Amma Kamala Devi*: 1962 SCC OnLine SC 381, also held that unlike in the case of appeals where Section 431 of Cr.P.C., 1898 (*akin to Section 394 of Cr.P.C., 1973*) specifically provides for abatement on the death of an accused, there is no corresponding provision governing abatement in the exercise of the High Court’s revisional jurisdiction. It was observed that while the appellate jurisdiction is invoked only upon the filing of an appeal by the convicted person or against an order of acquittal, no such limitation exists in respect of revisionary powers. The High Court may exercise its revisional jurisdiction even suo motu, on the basis of information from any source. Accordingly, the Court held that in a proper and deserving case, the High Court can exercise its revisional powers even after the death of the accused.

21. Therefore, in view of the above discussion, this Court is of the view that the applicant is certainly entitled to file an application for his impleadment as the legal representative of his father, who was the petitioner in this case.



22. Furthermore, examining the present case from the standpoint of reasonableness, the circumstances of the present case clearly indicate that no undue delay can be attributed to the applicant. The record shows that the present revision petition had been heard initially, and an interim order had been granted in favour of the petitioner. After being kept pending for about six years, i.e. between March, 2007 and July, 2013, the present matter was placed in the category of ‘*regular matters*’ and was directed to be listed in ‘*due course*’, and it was not taken up for hearing in August, 2023. The petitioner, Abdul Hameed Rahmani, had passed away in August, 2013. Given that the petition had not been listed for hearing at any time between 2013 and 2023, it cannot be said that it was unreasonable on the part of the applicant to file the application for his impleadment as legal representative in October, 2023, within a period of two months from listing of the matter in 2023, upon learning of the pendency of the petition. The long non-listing of the matter, coupled with the absence of any proceedings during this period, provides a satisfactory and justifiable explanation for the delay.

23. In this regard, it would also be apposite to refer to the observations of the Hon’ble Supreme Court in ***Perumon Bhagvathy Devaswom v. Bhargavi Amma: (2008) 8 SCC 321***, though rendered in the context of civil proceedings, which aptly capture the situation in the present case:

“16. In contrast, when an appeal is pending in a High Court, dates of hearing are not fixed periodically. Once the appeal is admitted, it virtually goes into storage and is listed before



the Court only when it is ripe for hearing or when some application seeking an interim direction is filed. It is common for appeals pending in High Courts not to be listed at all for several years. (In some courts where there is a huge pendency, the non-hearing period may be as much as ten years or even more.) When the appeal is admitted by the High Court, the counsel inform the parties that they will get in touch as and when the case is listed for hearing. **There is nothing the appellant is required to do during the period between admission of the appeal and listing of the appeal for arguments** (except filing paper books or depositing the charges for preparation of paper books wherever necessary). The High Courts are overloaded with appeals and the litigant is in no way responsible for non-listing for several years. **There is no need for the appellant to keep track whether the respondent is dead or alive by periodical enquiries during the long period between admission and listing for hearing.** When an appeal is so kept pending in suspended animation for a large number of years in the High Court without any date being fixed for hearing, there is no likelihood of the appellant becoming aware of the death of the respondent, unless both lived in the immediate vicinity or were related or the court issues a notice to him informing the death of the respondent”

(emphasis added)

24. The circumstances in the present case are akin to those mentioned above, and it is pertinent to note that this is not a simplicitor case of condonation of delay, but one involving peculiar facts and circumstances where – the petition had been preferred in 2007, placed in the ‘*regular matters*’ category in July, 2013, and then remained unlisted for nearly ten years. The appellant passed away in August, 2013, and it was only when the petition was taken up in August, 2023 that the applicant, being the son of the deceased-petitioner, became aware of the pendency of this petition before this Court. These circumstances, viewed cumulatively, provide a reasonable and *bona fide* explanation for the delay in filing the



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impleadment application. To reiterate, it is to be noted that the present case is not a simplicitor case of condonation of delay, but

25. In the totality of the above discussion, this Court finds that the applicant has made out a sufficient cause for condonation of delay. In view thereof, the present application seeking condonation of delay in filing the impleadment application is allowed.

26. Accordingly, CRL.M.A. 30661/2023 is disposed of.

27. List the present petition along with pending application (CRL.M.A. 30660/2023) on date already fixed i.e., 10.11.2025.

28. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

OCTOBER 27, 2025/zp