

2023 SCC OnLine Guj 2794

In the High Court of Gujarat at Ahmedabad  
(BEFORE HASMUKH D. SUTHAR, J.)

Patel Girishbhai Hargovandas

*Versus*

State of Gujarat

R/Criminal Misc. Application No. 15564 of 2023 and F/Criminal  
Revision Application No. 31727 of 2023

Decided on September 2, 2023

Advocates who appeared in this case:

Mr. Salim M Saiyed(5172) for the Applicant(s) No. 1  
for the Respondent(s) No. 2

Ms. DP Jhala, App for the Respondent(s) No. 1

The Order of the Court was delivered by

HASMUKH D. SUTHAR, J.:— RULE. Learned APP waives service of notice of Rule for the respondent - State of Gujarat.

2. This application is filed under Section 5 of the Limitation Act for condonation of delay of 51 days caused in filing the captioned Criminal Revision Application.

3. I have heard learned advocate Mr. Salim M. Saiyed for the applicant, learned advocate Mr. Aditya Pancholi for the respondent No. 2 and learned APP for the respondent-State.

4. Learned advocate for the applicant has submitted that the present applicant is convicted by the learned Additional Chief Judicial Magistrate, Mahesana in Criminal Case No. 1738 of 2022 by order dated 28.07.2022, the said order of conviction and sentence recorded by the learned Trial Court was confirmed by the learned Additional Sessions Judge in Criminal Appeal No. 247 of 2022 vide order dated 10.04.2023. The applicant is intended to challenge the both impugned orders before this Court by way of Criminal Revision Application, wherein delay of 51 days has been caused. It is submitted that the application for condonation of delay has been filed as applicant was not aware of the order of conviction as well as lack of knowledge and inability to manage for the requisite documents for filing of the present litigation as well as applicant is suffering from post operative complications. Hence, delay is caused.

5. Learned APP for the respondent State as well as learned advocate Mr. Aditya Pancholi for the respondent No. 2 have vehemently opposed the present application.

6. Considering the submissions made by the learned advocates for the respective parties, the applicant has mentioned sufficient cause for condonation of delay. The primary function of the Court is to adjudicate the dispute between the parties and to advance substantial justice. Rules of limitation are not meant to destroy the rights of parties. The Court is aware of the fact that denial to condone the delay would mean to dismiss the matter at threshold and there is no presumption that the delay caused by the appellant is deliberate. In view thereof, the words 'sufficient cause' under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice. Even reason stated appears to be bona fide and genuine. There is no smack of mala fide or dilatory tactics on the part of the applicant.

7. In view of the above, the delay of 51 days as explained in the application is condoned. The application is accordingly allowed. Rule is made absolute.

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