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Through FAX

27/4-6
25/7/25
(J.H.C. Sch. 1-7)

From :-

Ms. Shikha Agarwal,
Deputy Secretary,
SCMS Secretariat-cum-A.R. (J),
High Court of Jharkhand,
Ranchi.

W
P.D.J
25.07.25
Mob. No. 7070992022

Memo No. 4/22-C

Dated:- 24-07-25

To,

All the learned Principal District & Sessions Judges,
of the State of Jharkhand,
including learned Principal Judicial Commissioner, Ranchi.

Sub:- Regarding communication of Hon'ble Court's order dated 16.07.2025 passed in First Appeal No. 79 of 2025 (Jaya Bharti @ Komal Vs. Rakesh Kumar).

Sir/Madam,

With reference to the subject noted above, I am directed to forward herewith a true copies of Hon'ble Court's order dated 16.07.2025 passed in **First Appeal No. 79 of 2025 (Jaya Bharti @ Komal Vs. Rakesh Kumar)** arising out of **Original Suit No. 70 of 2023 of the Court of Principal Judge, Family Court, Bokaro**, for your kind information and necessary action to all concerned.

Further, you are directed to communicated the officers concerned accordingly.

This may be treated as "**MOST URGENT**".

Enxl:- As above (12 Sheets)

Yours Sincerely,

Shikha
24/7/25
Assistant Registrar (J)

IN THE HIGH COURT OF JHARKHAND AT RANCHI

First Appeal No.79 of 2025

Jaya Bharti @ Komal

Versus

Rakesh Kumar

Appellant

Respondent

**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE RAJESH KUMAR**

For the Appellant : Mr. Rishi Pallav, Advocate
For the Respondent : None

Order No.05/Dated: 16th July, 2025

I.A No.3650 of 2025

1. The present interlocutory application has been filed under section 5 of the Limitation Act, 1963 for condonation of delay of 485 days in preferring First Appeal No.79 of 2025.
2. Today when the matter is called out, no one appears to represent the respondent, however, the name of the learned counsel appearing for the respondent is reflected in the daily cause list who has put her appearance in the present proceeding as would be evident from the order dated 09.07.2025.
3. The learned counsel appearing for the appellant has submitted that delay of 485 days has been caused in filing the appeal due to having no knowledge about passing of ex-parte judgment and decree by the learned Principal Judge, Family Court, Bokaro (in short, learned Family Judge) for dissolution of marriage in Original Suit No.70 of 2023 which was granted in favour of the petitioner-husband (respondent herein).
4. It is stated in the instant interlocutory application that the decree of divorce, vide judgment dated 19.08.2023 and decree dated 26.08.2023, which is impugned in the present proceeding has been passed ex-parte. Hence, the appellant-wife had been no knowledge about the judgment and decree passed in Original Suit No.70 of 2023 for dissolution of their marriage and could not be able to file an appeal within the period of limitation.
5. The ground has been taken as would appear from paragraph nos.5, 6 and 7 that notice said to be issued on 28.02.2023. It has been

stated that on the next date i.e. on 31.03.2023, no step was taken by the petitioner (the respondent herein) and all of sudden on 19.04.2023 the case has been fixed for ex-parte hearing against the respondent.

6. The appellant came to know about the judgment dated 19.08.2023 and decree dated 26.08.2023 only on 20.02.2025 and thereafter she has applied for certified copy of the plaint, order sheet and judgment along with decree on 21.02.2025 which were supplied to her on 24.02.2025.
7. The ground, therefore, has been taken that due to having no knowledge about the passing of the decree and judgment in Original Suit No.70 of 2023, the delay of 485 days has been caused in filing the appeal.
8. It has been contended that the reason which has been shown in the instant interlocutory application to condone the delay of 485 days is, therefore, sufficient for the purpose of condoning the aforesaid delay.
9. We have heard the learned counsel for the appellant and gone through the pleadings made in the instant interlocutory application.
10. This Court while hearing the learned counsel for the appellant on 18.06.2025 has called for the trial court records so that the issue involved in the present appeal is to be decided on merit.
11. It needs to refer herein that the day when the trial court records was called for there was no appearance on behalf of the respondent-husband. However, this Court, based upon the office report, since the notice has been received by his father, namely, Ramji Prasad as also there is a report of jointness of the family, accepted the service to be validly served. However, the appearance has been made on behalf of the respondent-husband by filing "*vakalatnamā*" by Ms. Shristi Sinha, the learned counsel as would appear from the order dated 09.07.2025.
12. The trial court record is available on record.
13. We have gone through the trial court record and found that the Original Suit No.70 of 2023 was registered on 06.02.2023. The

Sheristedar was directed to report and the matter was posted on 13.02.2023 for hearing on the point of admission. On that day, no step was taken by the petitioner-husband (respondent herein) in the said original suit. Thereafter, the matter was posted on 24.02.2023 for hearing on admission point.

14. The matter was again posted on 24.02.2023. On that day, the petitioner has filed attendance through his learned counsel and a prayer was made on behalf of the petitioner for admission of the case. The learned trial Court has heard the learned counsel and perused the case record and after finding the petition in order, the case was admitted vide order dated 24.02.2023. It appears that in the right side of the order sheet dated 24.02.2023, there is a handwritten script indicating "notice issued by both ways" and the same is of dated 28.02.2023.

15. It needs to refer herein that when on 24.02.2023 the case was posted for appearance on 31.03.2023 and it is evident from the order that no step has been taken by the petitioner in compliance of the order dated 24.02.2023 and, accordingly, the case was fixed for 19.04.2023 then a question arises herein how the notice was issued on 28.02.2023 even without any specific order for issuance of notice upon the respondent-wife (appellant herein) which is not understandable.

16. It is, thus, evident that the handwritten script, so far it relates to issuance of notice by both ways are concerned, appears to be issued not on the date when the case was posted for hearing before the learned Family Judge, rather the same was in between 24.02.2023 and 31.03.2023 without having any specific order said to be passed on 24.02.2023. It also appears that there is no signature of the learned Family Judge just below the handwritten script dated 28.02.2023. The matter was posted as was fixed vide order 24.02.2023 on 31.03.2023, but no step was taken by the petitioner. The matter, thus, was posted on 19.04.2023 for appearance of the respondent-wife.

17. This Court is again not in a position to accept the fact that when the learned Family Judge has drawn the order sheet dated

31.03.2023 indicating that no step was taken by the petitioner, then where was the occasion available to him to post the matter for 19.04.2023 for appearance of the respondent-wife, rather the learned trial Court ought to have passed an order with a direction upon the learned counsel appearing for the petitioner-husband to take steps for service of notice if the notice issued vide order dated 28.02.2023 had been passed by the learned Family Judge himself.

18. The learned Family Judge ought to have also conducted an inquiry for the purpose of verifying as to whether the notice dated 28.02.2023 said to be issued on that date is actually is by him and if he has not passed the order since there is no situation to pass an order when the case was posted on 31.03.2023 for appearance of the respondent-wife. The learned Family Judge ought to have made an inquiry as to why in the midway between 24.02.2023 to 31.3.2023 how the notice was issued on 28.02.2023 and by whom.
19. The matter was posted on 19.04.2023. A reference has been made therein that the petitioner-husband filed attendance through his learned counsel. It further appears from the said order that the respondent-wife has not appeared till that day and registered notice sent to her returned with the endorsement "refused" that let the learned Family Judge to post the matter for ex-parte hearing against the respondent.
20. The learned Family Judge since has accepted the order by which the notice was issued on 28.02.2023 which was by both ways but as would appear from the order dated 19.04.2023 that there is no reference with respect to the out come of the notice sent to the respondent-wife through ordinary process and merely on the basis of the endorsement of "refuse" to accept the notice sent through the registered post, the case has been set as ex-parte hearing against the respondent-wife.
21. This Court, therefore, is of the view that what has been stated in the said interlocutory application appears to be in consonance with the order dated 24.02.2023 to 31.03.2023 as available in the order sheet of Original Suit No.70 of 2023.

22. Since we are dealing with the issue of limitation of 485 days in filing the First Appeal No.79 of 2025 and there is no dispute in position of law that irrespective of period of delay, the delay is to be condoned in exercise of power conferred under section 5 of the Limitation Act depending upon the sufficient cause if shown by the party seeking condonation of delay.

23. It also requires to refer herein that what is the meaning of 'sufficient cause'. The consideration of meaning of 'sufficient cause' has been made in *Basawaraj & Anr. Vrs. Spl. Land Acquisition Officer*, [(2013) 14 SCC 81], wherein, it has been held by the Hon'ble Apex Court at paragraphs 9 to 15 hereunder:-

"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See *Manindra Land and Building Corpn. Ltd. v. Bhutnath Banerjee* [AIR 1964 SC 1336], *Mata Din v. A. Narayanan* [(1969) 2 SCC 770 : AIR 1970 SC 1953], *Parimal v. Veena* [(2011) 3 SCC 545 : (2011) 2 SCC (Civ) 1 : AIR 2011 SC 1150] and *Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai* [(2012) 5 SCC 157 : (2012) 3 SCC (Civ) 24 : AIR 2012 SC 1629].

10. In *Arjun Singh v. Mohindra Kumar* [AIR 1964 SC 993] this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (*Vide Madanlal v. Shyamlal* [(2002) 1 SCC 535 : AIR 2002 SC 100] and *Ram Nath Sao v. Gobardhan Sao* [(2002) 3 SCC 195 : AIR 2002 SC 1201].

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, p. 266:

"605. Policy of the Limitation Acts.—The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence."

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches. (See *Popat and Kotecha Property v. SBI Staff Assn.* [(2005) 7 SCC 510] , *Rajender Singh v. Santa Singh* [(1973) 2 SCC 705 : AIR 1973 SC 2537] and *Pundlik Jalam Patil v. Jalgaon Medium Project* [(2008) 17 SCC 448 : (2009) 5 SCC (Civ) 907] .)

14. In *P. Ramachandra Rao v. State of Karnataka* [(2002) 4 SCC 578 : 2002 SCC (Cri) 830 : AIR 2002 SC 1856] this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in *Abdul Rehman Antulay v. R.S. Nayak* [(1992) 1 SCC 225 : 1992 SCC (Cri) 93 : AIR 1992 SC 1701] .

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

24. Thus, it is evident that the sufficient cause means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted deliberately" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised

judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The Court has to examine whether the mistake is bona fide or was merely a device to cover the ulterior purpose as has been held in *Manindra Land and Building Corporation Ltd. Vrs. Bhootnath Banerjee & Ors.*, AIR 1964 SC 1336, *Lala Matadin Vrs. A. Narayanan*, (1969) 2 SCC 770, *Parimal Vrs. Veena @ Bharti*, (2011) 3 SCC 545 and *Maniben Devraj Shah Vrs. Municipal Corporation of Brihan Mumbai*, (2012) 5 SCC 157.

25. It has further been held in the aforesaid judgments that the expression 'sufficient cause' should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible, reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in *Ram Nath Sao @ Ram Nath Sahu & Ors. Vrs. Gobardhan Sao & Ors.*, (2002) 3 SC 195, wherein, at paragraph-12, it has been held as hereunder:-

"12. Thus it becomes plain that the expression "sufficient cause" within the meaning of Section 5 of the Act or Order 22 Rule 9 of the Code or any other similar provision should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fides is imputable to a party. In a particular case whether explanation furnished would constitute "sufficient cause" or not will be dependent upon facts of each case. There cannot be a straitjacket formula for accepting or rejecting explanation furnished for the delay caused in taking steps. But one thing is clear that the courts should not proceed with the tendency of finding fault with the cause shown and reject the petition by a slipshod order in over-jubilation of disposal drive. Acceptance of explanation furnished should be the rule and refusal, an exception, more so when no negligence or inaction or want of bona fides can be imputed to the defaulting party. On the

other hand, while considering the matter the courts should not lose sight of the fact that by not taking steps within the time prescribed a valuable right has accrued to the other party which should not be lightly defeated by condoning delay in a routine-like manner. However, by taking a pedantic and hypertechnical view of the matter the explanation furnished should not be rejected when stakes are high and/or arguable points of facts and law are involved in the case, causing enormous loss and irreparable injury to the party against whom the lis terminates, either by default or inaction and defeating valuable right of such a party to have the decision on merit. While considering the matter, courts have to strike a balance between resultant effect of the order it is going to pass upon the parties either way."

26. Further, the Hon'ble Apex Court in **Ramlal, Motilal and Chhotelal Vrs. Rewa Coalfields Ltd., (1962) 2 SCR 762**, has held that merely because sufficient cause has been made out in the facts of the given case, there is no right to the appellant to have delay condoned. At paragraph-12, it has been held as hereunder:

"12. It is, however, necessary to emphasise that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by Section 5. If sufficient cause is not proved nothing further has to be done; the application for condoning delay has to be dismissed on that ground alone. If sufficient cause is shown then the court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the court may regard as relevant. It cannot justify an enquiry as to why the party was sitting idle during all the time available to it. In this connection we may point out that considerations of bona fides or due diligence are always material and relevant when the court is dealing with applications made under Section 14 of the Limitation Act. In dealing with such applications the court is called upon to consider the effect of the combined provisions of Sections 5 and 14. Therefore, in our opinion, considerations which have been

expressly made material and relevant by the provisions of Section 14 cannot to the same extent and in the same manner be invoked in dealing with applications which fall to be decided only under Section 5 without reference to Section 14. In the present case there is no difficulty in holding that the discretion should be exercised in favour of the appellant because apart from the general criticism made against the appellant's lack of diligence during the period of limitation no other fact had been adduced against it. Indeed, as we have already pointed out, the learned Judicial Commissioner rejected the appellant's application for condonation of delay only on the ground that it was appellant's duty to file the appeal as soon as possible within the period prescribed, and that, in our opinion, is not a valid ground."

27. Thus, it is evident that while considering the delay condonation application, the Court of Law is required to consider the sufficient cause for condonation of delay as also the approach of the litigant as to whether it is bona fide or not as because after expiry of the period of limitation, a right is accrued in favour of the other side and as such, it is necessary to look into the bona fide motive of the litigant and at the same time, due to inaction and laches on its part.
28. This Court adverting to the ground taken in the instant interlocutory application as also to come to the consideration as to whether the ground shown for condoning the delay of 485 days can be said to be sufficient cause or not.
29. Expression 'sufficient cause' has been dealt with which means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted deliberately" or "remained inactive".
30. It has been stated in paragraph nos.5,6,7,8 and 9 of the instant interlocutory application that the appellant was having no knowledge about the divorce suit and when she came to know the judgment and decree passed in divorce suit being Original suit No.70 of 2023, she applied for certified copy of the plaint, order sheet and judgment along with decree on 21.02.2025 which were supplied to her on 24.02.2025. Thereafter, she consulted her lawyer for filing an appeal and thus, delay of 485 days occurred.

For ready reference, paragraph nos.5,6,7,8 and 9 are being quoted hereinunder as:

"5. That order for issuance of notice to the appellant was passed on 24.02.2023 and accordingly notice to the appellant was issued on 28.02.2023. The notice returned undelivered with noting "addressee was not in the house and family member denied to accept".

6. That on the next date i.e on 31.03.2023 no step was taken by the respondent and case was put up on 19.04.2023. On the submission of the counsel of the respondent that the notice was returned with endorsement "refused", order of ex-parte against the appellant was passed on 19.04.2023.

7. That the suit proceeded, ex-parte without any further attempt for appearance of the appellant either by way fresh notice or by substituted service.

8. That the appellant has not received any notice of the suit nor she has refused to accept the same nor any further attempt for appearance of the appellant was made during trial, which are apparent from the order-sheet and records of the case.

9. That recently, on 20.02.2025, the appellant came to know about the judgment dated 19.08.2023 and decree dated 26.08.2023 and immediately applied for certified copy of the plaint, order-sheet and judgment along with decree on 21.02.2025, which was supplied to the appellant on 24.02.2025."

31. We are considering the issue of matrimonial dispute and as per the law laid down for condoning the delay that the issue of limitation is to be taken liberally and not to be taken in hyper technically manner. The reason what has been stated in paragraph nos.5, 6 and 7, therefore, cannot be said to be not having sufficient reason being filing the appeal after delay of 485 days.

32. This Court, on the basis of the reference, as has been made hereinabove by making reference of the order sheets setting the Original Suit No.70 of 2023 ex-parte hearing against the respondent-wife, is of the view that the cause which has been shown by the appellant-wife in the instant interlocutory application is sufficient one to condone the delay.

33. This Court, considering the reason assigned in paragraph nos. 5, 6, 7, 8 and 9 of the instant interlocutory application, is of the view that the same is sufficient cause for the purpose of condoning the delay of 485 days in filing the appeal.

34. Accordingly, I.A. No. 3650 of 2025 is allowed.

35. Consequently, the delay of 485 days in filing the present appeal is hereby condoned.

First Appeal No.79 of 2025

36. Heard the learned counsel for the appellant.

37. Admit.

38. Since the parties have already appeared in the present case and, as such, there is no need to issue fresh notice to the respondent-husband.

39. List this case on 06.08.2025.

40. In the proceeding of Original Suit No.70 of 2023, this Court considered the conduct of the office of the learned Family Judge to be not proper.

41. This Court is further of the view that if such practices are going on in the respective Courts of the judgeship of the State of Jharkhand, the same is to be taken care of seriously due to the reason that the office-clerk cannot act as an Presiding Officer/Judge and if any order has been passed without any signature of the Presiding Officer/Judge, then the said order is said to be invalid in the eyes of law.

42. Let this order be communicated to all the learned Principal District & Sessions Judge/Principal Judicial Commissioner for its onward communication to the learned Principal Judges/Additional Principal Judges of different judgeship of the State of Jharkhand.

sd/- (Sujit Narayan Prasad, J.)
Sd/ (Rajesh Kumar J.)
True Copy Secretary/Sr. P.A./P.A. 18/7/2025

Sudhir

