

**Petitioner Vs. Respondent**

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**SooperKanoon Citation :** [sooperkanoon.com/1185933](http://sooperkanoon.com/1185933)

**Court :** Chennai

**Decided On :** Jan-24-2017

**Judge :** M. Venugopal

**Appeal No. :** Crl. M.P. No. 1012 of 2017 in Crl. A. Sr. No. 2289 of 2017

**Appellant :** Petitioner

**Respondent :** Respondent

**Judgement :**

1. The Petitioner/Appellant/State has preferred the instant Miscellaneous Petition before this Court seeking to condone the delay of 3432 days in preferring an Appeal in Crl.A.Sr.No.2289 of 2017 for enhancement of sentence as against the Judgment in S.C.No.200 of 2006 dated 20.07.2007 passed by the Learned Additional Sessions Judge, Dharmapuri.

2. According to the Petitioner/Appellant, the trial Court in S.C.No.200 of 2006 on 20.07.2007 delivered the Judgment. In the affidavit in Crl.M.P.No.1012 of 2017, the Deputy Superintendent of Police, Pennagaram Sub Division, Dharmapuri District, at paragraph 3, had averred that he made a requisition to the Additional Public Prosecutor of the Additional Sessions Court, Dharmapuri and obtained an opinion on 28.11.2016 from him. Thereafter, the proposal together with the legal opinion was submitted to the Superintendent of Police, Dharmapuri District through proper channel. In turn, the Superintendent of Police, Dharmapuri District

had forwarded the proposal to the Director General of Police, Tamil Nadu, Chennai vide letter C.No.C-1/33507/2016, dated 05.12.2016 through the District Collector, Dharmapuri District ,who in turn forwarded the said proposal to the Principal Secretary to Government, Home Department, Secretariat, Chennai as per letter in Ref. Rc.No.4376/Crime 2(2)/2017 dated 09.01.2017.

3. Apart from the above, at para 4 of the affidavit in CrI.M.P.No.1012 of 2017, it is stated that the Additional Secretary to Government, Home [Cts.VII] Department, Secretariat, Chennai sent a proposal to the Learned Public Prosecutor, High Court, Madras in connection with filing of an Appeal for enhancement of sentence as against the Respondents/Accused (A1 to A3) before this Court vide letter Ref. No.3033/Cts/VII/2017-1, dated 10.01.2017 which was received in the office of the Public Prosecutor, High Court, Madras on 10.01.2017. Accordingly, an Appeal for enhancement of sentence as against the Respondents/A1 to A3 was filed before this Court on 11.01.2017 with a delay of 3432 days, which is neither wilful nor wanton, but due to the bona fide reasons as stated supra.

4. It is to be borne in mind that ordinarily, when a Court of Law deals with a 'Petition for Condonation of Delay', it is to adopt a lenient and liberal view to advance the cause of Justice. However, if the delay is an enormous one and if no sufficient cause is shown on the side of the Petitioner/Appellant, then, the said Petition may be dismissed. It is true that a 'Right of Appeal' is very important and a valuable right not only to the prosecution, but also to the Accused side.

5. As far as the present case is concerned, the Petitioner/ Appellant/State, in the affidavit in CrI.M.P.No.1012 of 2017 at paragraphs 3 and 4, had assigned reasons [for the delay of 3432 days] mainly of administrative character. But the said administrative reasons, for the delay of 3432 days in seeking an enhancement of sentence as against the Respondents/A1 to A3 in regard to the Judgment passed by the trial Court in S.C.No.200 of 2006, do not subjectively satisfied the conscience of this Court. In short, on behalf of the Petitioner/Appellant/State, no sufficient cause or just/valid cause has been shown for the delay in preferring the present Appeal. Viewed in that perspective, the Criminal Miscellaneous Petition fails.

6. In fine, the Crl.M.P.No.1012 of 2017 is dismissed.

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