

**THE HIGH COURT OF MADHYA PRADESH**  
**CRR No.1818/2020**  
***(BUDDH SINGH VS. THE STATE OF MADHYA PRADESH & ANR.)***

**Gwalior dtd. 18/08/2020**

Shri Rajmani Bansal, learned counsel for the applicant.

Shri Anup Nigam, learned Panel Lawyer for the State.

The records of the Courts below have been received.

**Heard on I.A.No.9925/2020:-**

This is an application under Section 5 of Limitation Act for condonation of delay in filing this criminal revision.

It is submitted by the counsel for the applicant that the applicant is the only bread winner of the family and due to Covid-19 he could not surrender within time due to which there is a delay of 68 days in filing the revision and accordingly, it is prayed that the delay in filing this revision may be condoned.

Considered the submissions made by the counsel for the applicant.

Application filed under Section 5 of Limitation Act reads as under:-

**“An application under Section 5 of Limitation Act**

MAY IT PLEASE THIS HON'BLE COURT,

Most humbly and respectfully submitted this application as under:-

1. That, the instant revision has been filed by the applicant being aggrieved by the conviction granted by the trial court.
2. That, the present applicant is only the bread earner of the family and due to covid-19 the applicant could not surrender well with in time and due to which

there is a delay in filing the revision.

3. That, looking to the present situation and looking to the fact that applicant is only the bread earner of the family and there is a delay of 68 days in filing the revision and the same is based on bonafide ground and hence may kindly be considered in the interest of justice.

4. That, the delay in filing the revision is beyond the control of the applicant and hence may kindly be considered in the interest of justice.

5. That, the petitioner craves the leave of the Hon'ble Court to submit any other ground at the time of hearing.

**PRAYER**

It is, therefore most respectfully prayed this application may kindly be allowed and delay in filing the revision may kindly be condoned in the interest of justice.”

The applicant has not disclosed the correct facts in the application filed under Section 5 of Limitation Act.

From the record of the appellate Court it is clear that the applicant appeared before the appellate Court on 19/11/2019. On the said date the case was fixed for final arguments. A statement was made by the counsel for the applicant that there is a possibility of compromise, therefore, the matter was adjourned for 03/12/2019. On 03/12/2019, the applicant did not appear before the Appellate Court and the counsel for the applicant once again prayed for time to explore the possibility of compromise and accordingly, the case was adjourned for 12/02/2019. On 12/02/2019, the applicant appeared before the appellate Court and made a statement that there

is no possibility of compromise and accordingly, the case was fixed for final arguments on 13/02/2020. On 13/02/2020 the applicant did not appear and an application under Section 317 of Cr.P.C. was filed, which was allowed and the case was fixed for 20/01/2020 with a direction that the applicant shall positively remain present before the Court. However, on 20/01/2020, the applicant did not appear before the appellate Court and filed an application under Section 317 of Cr.P.C. and the counsel for the applicant prayed for one more opportunity to argue the matter finally. Accordingly, the case was adjourned to 23/01/2020. On 23/01/2020 also, the applicant did not appear and the final arguments were heard and the case was fixed for 05/02/2020 for delivery of judgment. On 05/02/2020 also the applicant did not appear and filed an application under Section 317 of Cr.P.C. Due to the absence of the applicant, the judgment could not be pronounced and accordingly, the case was fixed for 13/02/2020 for pronouncement of judgment with a clear stipulation that the applicant shall remain present before the appellate Court. On 13/02/2020 also the applicant did not appear and accordingly, the judgment was pronounced by accepting the appearance of the applicant through his Counsel.

Thereafter, without surrendering before the Trial Court, the applicant filed a Criminal Revision No.1647/2020 and accordingly, by order dated 02/06/2020 this Court dismissed the revision as not maintainable.

It appears that now the applicant has surrendered and has

filed the present revision.

Although, it is a settled principle of law that where the accused is in jail, then the application for condonation of delay should be considered liberally but the applicant must come with clean hands and should not suppress any fact. Neither in the application for condonation of delay, nor in the memo of revision, the applicant has disclosed that he did not appear before the Appellate Court on various occasions, and ultimately, not only the appeal was heard in his absence, but even the judgment was also pronounced in his absence. Neither in the application under Section 5 of Limitation Act nor in the memo of revision, the applicant has explained as to why he did not appear before the appellate Court and why he did not surrender after the dismissal of his Criminal Appeal. The only contention of the applicant that he could not surrender due to Covid-19 pandemic cannot be accepted, for the simple reason that the applicant was not appearing before the Appellate Court from 13/01/2020 onwards and at that time, this Country was not hit by Covid 19 Pandemic. Even the final arguments were heard and judgment was pronounced on 15/02/2020 by the Appellate Court in his absence. It is not in dispute that by 15/02/2020 there was no threat of Covid-19 pandemic and lockdown was imposed from 24/03/2020. Thus, it is clear that after the case was fixed for final arguments before the appellate Court, the applicant stopped appearing before the appellate Court. Thus, in view of the conduct of the applicant this

Court is of the considered opinion, that even if a sympathetic view is adopted still, he has not made out a good ground for condonation of delay in filing this revision.

Accordingly, I.A.No.9925/2020, which is an application under Section 5 of Limitation Act is dismissed as a consequence, the revision is also **dismissed** as barred by time.

Pj'S/-

**(G.S.Ahluwalia)**  
**Judge**