IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
Cr.MP(M) No.1744 of 2026
Decided on 09th September 2026

Samrej Khan

…Applicant

Vs.

Smt. Sibha Begum and others

…Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

Hon'ble Mr. Justice Yogesh Jaswal, Judge

[1]Whether approved for reporting? Yes

For the applicant : Mr. Jagat Pal, Advocate.

Ajay Mohan Goel, Judge *(Oral)*

By way of this application, a prayer has been made for condonation of delay in filing the Criminal Revision, in terms whereof, the applicant intends to assail the order passed by the Court of learned Additional Principal Judge, Family Court, Paonta Sahib, in case No.146-N/4 of 2020, titled Smt. Sibha Begum and others versus Samrej Khan, decided on 15.09.2025. In terms of this order, the petition filed by the respondents herein under Section 125 Cr.P.C. for grant of maintenance stands decided by the learned Court below by awarding maintenance to the tune of Rs.5,000/- to the wife and Rs.3,000/- each to the minor children.

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2. As per the report of the Registry, the present petition is barred by 336 days.

3. A perusal of the application filed under Section 5 of the Limitation Act demonstrates that the following reasons stand assigned therein to justify the delay in filing of the petition:-

> *"That the applicant/petitioner is a private driver by profession and most of the time he remains out of station and he was not aware that when he was proceeded as an ex-parte and when the final judgment dated 15.09.2025 was passed against Registrar him. As a matter of fact, the applicant came to know about the ex-parte judgment dated 15.09.2025 passed by the Ld. Trial Court below when in the month of August, 2026 he received a summon from the Ld. Trial Court below in the Execution Petition, immediately, thereafter, he applied certified copy of judgment dated 15.09.2025 on 11.08.2026 and after receiving the same he visited the office of present Ld. Counsel at Shimla to file appropriate petition against the ex-parte judgment. Without any further delay, the Ld. Counsel of petitioner prepare and draft the present petition and filed the same before this Hon'ble Court, but subsequently, there is a delay of about 300 days."*

4. The impugned order was passed by the learned Court below on 15.09.2025. The petitioner stood proceeded *ex-parte* at the time of the pronouncement of the order. In fact, a perusal of the order under challenge demonstrates that after the petitioner was proceeded against *ex-parte*, he had filed an

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application for recall of the order, which was also dismissed by the learned Court below. This order was also not assailed any further by the petitioner. Further, this fact has not been mentioned at all in the application filed under Section 5 of the Limitation Act.

5. The contention of the learned counsel for the applicant is that the delay is on account of the profession of the applicant, as he remains out of station on most days. As per him, it is on this count that he has been proceeded against *ex-parte* and he only came to know about the *ex-parte* judgment when he received the summons of execution petition.

6. This contention of the learned counsel for the applicant neither convinces nor satisfies the Court. In light of the fact that the applicant had approached the learned Court below for the recall of the order, in terms whereof, he was proceeded against *ex-parte* this demonstrates that he was aware of the fact, even before the decision of the petition, that he stood proceeded against *ex-parte* therein.

7. A perusal of the order of the learned Court below further demonstrates that the application filed by the present

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applicant for recalling the *ex-parte* order, which order was dated 24.04.2024 was dismissed by the learned Court on 19.02.2025. Thereafter, the wife was called upon to conclude the evidence and on 02.05.2025, the evidence was led by the wife. In case, the present applicant was very serious about contesting the proceedings which were initiated by the non-applicant herein before the learned Court below, nothing prevented the present applicant from joining the proceedings thereafter also, including on the date when the evidence was led by the wife.

8. The above discussion demonstrates that despite being fully aware of the pendency of the proceedings, the petitioner was evading the contest thereof.

9. Furthermore, the explanation given in the application is not satisfactory at all.

10. Once the limitation period expires and a party approaches the Court under Section 5 of the Limitation Act for condonation of delay, the Court has to be satisfied that justifiable reasons existed, on account whereof the party could not approach the Court either within the period of limitation or within some reasonable time after the expiry thereof.

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11. In the present case, the justification in the application nowhere satisfies these requirements.

12. Therefore, in light of the above reasoning, as we do not find any merit in the application praying for condonation of delay in filing the Criminal Revision Petition, the same is dismissed. Pending miscellaneous applications, if any, also stand disposed of.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

September 09, 2026
(Vinod)

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