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**IN THE HIGH COURT OF MADHYA
PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE JAI KUMAR PILLAI**

CRIMINAL REVISION No. 1718 of 2026

BHERUSINGH
Versus
KARULAL

Appearance:

Shri Harshwardhan Singh Rathore - Advocate for the
petitioner

Shri Kushagra Jain - Advocate for the
respondent/complainant.

Reserved on :- 06.07.2026

Post on :-10.07.2026

ORDER

The present Criminal Revision Petition has been preferred by
the revisionist under Section 397 read with Section 401 of the Code



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of Criminal Procedure, 1973 (corresponding to Section 438 read with 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023). This revision is preferred against the impugned order dated 02.04.2026 passed in MJCR No. 148/2026 by the learned IInd Additional Session Judge, Jaora, District Ratlam. By way of the impugned order, the learned Session Court dismissed the criminal appeal filed by the petitioner strictly on the ground of a 12-day limitation delay, thereby refusing to condone the delay and declining to hear the appeal on its merits. Consequently, the original judgment and order dated 30.01.2026 passed in SCNIA/153/2022 by the Judicial Magistrate, Jaora, District Ratlam, convicting the petitioner under the Negotiable Instruments Act (N.I. Act) and sentencing him to Rigorous Imprisonment along with a compensation deposit of Rs. 1,40,000/- with 6% interest, was upheld.

FACTS IN BRIEF

2. The factual matrix necessary for the disposal of the present revision is that the respondent filed a complaint under



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Section 138 of the N.I. Act before the trial Court regarding the dishonor of a cheque amounting to Rs. 1,40,000/- due to "insufficient funds".

After the conclusion of the trial, the Judicial Magistrate, Jaora, convicted the petitioner vide judgment dated 30.01.2026, sentencing him to undergo Rigorous Imprisonment and directing the deposit of Rs. 1,40,000/- as compensation along with 6% interest within three months. Aggrieved by the conviction, the petitioner preferred a criminal appeal before the learned Session Judge, Jaora. However, the said appeal was filed with a delay of 12 days. An application under Section 5 of the Limitation Act was moved alongside the appeal, citing the petitioner's rural background, ignorance of the limitation period, and intervening Court holidays as reasons for the delay. The learned Session Court, vide the impugned order dated 02.04.2026, dismissed the Section 5 application at the threshold without hearing the appeal on its merits.

CONTENTIONS OF THE REVISIONIST



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3. The revisionist contends that the impugned order is contrary to settled principles governing the condonation of delay under Section 5 of the Limitation Act. The Learned Sessions Court has erred in law in adopting a hyper-technical and pedantic approach while rejecting the application for condonation of delay of merely 12 days, disregarding the settled principle that the expression “sufficient cause” must receive a liberal construction to advance substantial justice.

4. The revisionist further submitted that refusal to condone short delay defeats the right to appeal and causes grave miscarriage of justice. The dismissal of the appeal by the learned Court below, at the threshold without adjudication on merits has resulted in denial of the statutory right of appeal, which is a valuable right available to the accused.

5. It is also contended that the learned Sessions Court failed to appreciate that the delay was bonafide and sufficiently explained. The petitioner had clearly explained that he belongs to a



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rural background, was unaware of the limitation period, and was also prevented due to intervening Court holidays. These reasons constitute “sufficient cause” within the meaning of Section 5 of the Limitation Act.

6. The revisionist argues that the learned Court below failed to exercise jurisdiction vested in it. The learned Sessions Court has failed to exercise its jurisdiction in a judicious manner by not properly appreciating the reasons given in the application under Section 5 and by rejecting it mechanically without recording cogent reasons. In quasi-criminal matters like N.I. Act, a liberal approach is required to ensure a fair trial and justice, and Courts are required to lean in favor of adjudication on merits.

7. It is further submitted that the impugned order results in failure of justice and abuse of process of law. By dismissing the appeal on a mere delay of 12 days, the Learned Sessions Court has effectively upheld the conviction without appellate scrutiny, thereby causing serious prejudice to the petitioner. The revisionist maintains



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that the petitioner is innocent and has not committed any offence u/s 138 of the NI Act. He has been falsely implicated by the respondent based on assumptions and surmises; however, the trial court below has erred in not considering this material fact, and further, the session court completely erred in rejecting the application of the petitioner u/s 5 of the Limitation Act.

8. The revisionist notes that the order is non-speaking and passed without proper application of mind. The impugned order does not reflect due consideration of the reasons mentioned in the application and lacks proper reasoning, making it unsustainable in law. Even otherwise, the delay of 12 days is minimal and ought to have been condoned in the interest of justice. The Apex Court in a series of judgments has consistently held that short delays deserve liberal consideration, particularly when no prejudice is caused to the opposite party.

9. It is urged that both the trial Court below failed to consider the fact that there are material contradictions, omissions,



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and embellishments in the statement of the witnesses, and the trial was a clear case of acquittal. Thus, the said judgment deserves to be challenged in appeal. The impugned order passed by the learned judge of the trial court below is without any justified reasons and without any application of judicial mind, grossly erring in not considering the fact that the applicant has been falsely implicated.

10. The revisionist further stresses that the Learned Trial Court failed to appreciate that the existence of a legally enforceable debt was not proved. The essential ingredient of Section 138 is that the cheque must have been issued in discharge of a legally enforceable debt or liability. The complainant failed to produce cogent and reliable evidence to establish the existence of such debt; thus, the judgment passed by the trial court is required to be challenged in appeal.

11. Finally, it is argued that the Learned Trial Court wrongly shifted the burden entirely on the accused, failing to appreciate that once a probable defense is raised, the complainant



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must independently prove the transaction. The conviction based solely on presumption without proper proof is unsustainable, and the findings of the Trial Court are based on conjectures and surmises. The conviction is not based on legally admissible evidence but on assumptions, thereby rendering the judgment perverse and liable to be set aside after condonation of delay.

12. Alongside the main grounds, the petitioner has moved IA No. 5618/2026 seeking exemption from surrender under Rule 48 of the M.P. High Court Rules read with Section 482 of the Cr.P.C. The revisionist submits that the impugned order dated 02.04.2026 suffers from patent illegality and jurisdictional error, providing an exceptional circumstance.

13. It is contended that the Supreme Court in **Vivek Rai and another Vs. State of Jharkhand** reported as (2015) 12 SCC 86 settled the law that though surrender is generally required, the Hon'ble High Court retains inherent power to grant exemption in exceptional situations. This Hon'ble High Court in numbers of



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judgments, including Sanjay Nagayach Vs. State of Madhya Pradesh in CRR.No. 729/2024 and Devnarayan and Others Vs Prateek Goyanka in CRR No. 1912 of 2024, has held that exemption can be granted if prima facie illegality and impropriety are pointed out.

14. The petitioner notes that he is the only person in the family taking care of his wife and kids, is a law-abiding person and permanent resident of Gram Kalukheda, Dist. Ratlam, with no likelihood of absconding, and is ready to follow all conditions and furnish adequate surety.

CONTENTIONS OF THE RESPONDENT

15. The counsel for the respondent has vehemently opposed the present revision petition as well as the accompanying application for exemption from surrender.

16. The counsel for the respondent contends that the impugned order passed by the learned Session Court is legally sound and that the petitioner failed to establish any bona fide or



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sufficient cause for each day of the delay in filing the statutory appeal. It is submitted that the grounds raised by the petitioner regarding his rural background and court holidays are merely formal and unconvincing.

17. In direct opposition to IA No. 5618/2026 seeking exemption from surrender, the respondent has specifically relied upon the judgment of this Court in the case of Deepak Sahu and others vs State of MP 2012(3) MPLJ 534, arguing that a criminal revision petition against a conviction is maintainable only if it contains a strict declaration to the effect that the convicted person is in custody or has surrendered after conviction, except where the sentence has been suspended by the court below.

ANALYSIS AND CONCLUSION

18. The scope of revisional jurisdiction under the Code of Criminal Procedure is strictly supervisory and corrective in nature. The Revisional Court does not function as a regular Court of Appeal and ordinarily avoids a full-fledged re-appreciation of



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evidence unless required to prevent a manifest miscarriage of justice.

19. It is pertinent to note that the learned session Court has dismissed the appeal filed by the revisionist only upon the ground of limitation of 12 days delay and did not touch the merit of the case. The impugned order of the learned session court reads as under:-

"हस्तगत आवेदन-पत्र,उसके उत्तर एवं उभयपक्ष के तर्कों के आलोक में प्रकरण पत्रावली एवं विद्वान विचारण न्यायालय द्वारा घ शोषित निर्णय दिनांक 30.01.2026 की सत्यापित प्रति का अवलोकन किया गया। अवलोकन से दर्शित है कि, विद्वान विचारण न्यायालय के द्वारा दिनांक 30.01.2026 को निर्णय घोषित किया गया है, जिसकी अपील दिनांक 28.02.2026 तक होनी थी, किंतु यह अपील 12 दिवस के विलंब से दिनांक 12.03.2026 को प्रस्तुत की गयी है।

अपीलार्थी/अभियुक्त के विद्वान अधिवक्ता द्वारा अपील प्रस्तुति में विलंब का कारण अपीलार्थी/अभियुक्त के ग्रामीण एवं अनपढ़ होकर कृषि कार्य एवं मजदूरी का कार्य करने तथा वर्तमान में होली व अन्य त्यौहारों के कारण उसको न्यायालय की सुनवाई एवं अपील प्रस्तुत करने की समयावधि का ज्ञान नहीं होना बताया गया है। उक्त के संबंध में यह उल्लेख किया जाना समीचीन होगा कि. होली का त्यौहार मार्च माह में था तथा अपील प्रस्तुति की समयावधि उसके पूर्व दिनांक 28.02.2026 तक ही रही है, इसलिये होली व अन्य त्यौहारों के कारण अपील में प्रस्तुति में विलंब होने का तथ्य सद्भाविक होना नहीं पाया जाता है। अपीलार्थी/अभियुक्त की ओर से अपील प्रस्तुति में विलंब का एक अन्य कारण उसके ग्रामीण एवं अनपढ़ होकर कृषि कार्य एवं मजदूरी का कार्य करना भी बताया गया है, उक्त के संबंध में यह भी उल्लेख किया जाना समीचीन होगा कि , स्वयं



अपीलार्थी/ अभियुक्त के विद्वान अधिवक्ता के तर्क के, अनुसार विचारण न्यायालय द्वारा घोषित निर्णय एवं दण्डादेश दिनांक 30.01.2026 को ही अपीलार्थी/अभियुक्त की ओर से विहित समयावधि में अपीलीय न्यायालय से दण्डादेश पर स्थगन प्राप्त किये जाने के संबंध में आवेदन-पत्र प्रस्तुत किया गया है, जिससे यह भी स्पष्ट है कि, अपीलार्थी/अभियुक्त को निर्णय दिनांक को ही विचारण न्यायालय द्वारा उसे दोषसिद्ध ठहराया जाकर दण्डादिष्ट किये जाने पर विहित समयावधि में अपील प्रस्तुत कर अपीलीय न्यायालय से स्थगन प्राप्त करने की जानकारी रही है, किंतु फिर भी उसके द्वारा ऐसा नहीं किया जाना उसके द्वारा विचारण न्यायालय के समक्ष प्रस्तुत आवेदन-पत्र में वर्णित तथ्यों की उपेक्षा को दर्शाता है। आवेदन-पत्र में यह भी वर्णित किया गया है कि अपीलार्थी/अभियुक्त के द्वारा जब अपने अभिभाषक से संपर्क किया गया, तो उसे अपील प्रस्तुत करने के लिए कहा गया। उक्त के संबंध में यह भी उल्लेखनीय है कि, अपीलार्थी/ अभियुक्त की ओर से प्रकरण की पैरवी हेतु जो अधिवक्ता विचारण न्यायालय समक्ष नियुक्त रहे हैं, वही अधिवक्ता इस न्यायालय में भी हैं, जिससे इस बात की भी उपधारणा की जा सकती है कि विचारण न्यायालय द्वारा अपीलार्थी/ अभियुक्त को दण्डादिष्ट किये जाने पर अपीलीय न्यायालय से स्थगन आदेश प्राप्त करने हेतु विहित अवसर प्राप्त करने पर उनके द्वारा उक्त के संबंध में अपीलार्थी / अभियुक्त को हिदायत अवश्य दी गयी होगी। इस प्रकार अपीलार्थी / अभियुक्त की ओर से आवेदन-पत्र प्रस्तुत आवेदन-पत्र में वर्णित विलंब के आधार सद्भाविक होना नहीं पाये जाते हैं। इस प्रकार अपीलार्थी/ अभियुक्त ने स्वयं को विचारण न्यायालय द्वारा दोषसिद्ध ठहराया जाकर दण्डादिष्ट किये जाने के उपरांत भी अपील प्रस्तुति में बिना किसी सद्भाविक कारण के अपील प्रस्तुति में विलंब कारित किया गया है। जो कतई क्षमा किये जाने योग्य नहीं है। आवेदन-पत्र में यह भी स्पष्ट नहीं किया गया है कि, अपील प्रस्तुति में कितने दिन का विलंब हुआ है, जबकि इस प्रकार के आवेदन-पत्र के समर्थन में प्रत्येक दिवस के विलंब का कारण दर्शित किया जाना आवश्यक है, किंतु हस्तगत प्रकरण में अत्यंत औपचारिक रूप से आवेदन-पत्र प्रस्तुत किया गया है तथा अपील प्रस्तुति में हुये विलंब के कारण भी सद्भाविक होना नहीं पाये गये हैं। अतः उपरोक्त तथ्यों को समग्रता से दृष्टिगत् रखते हुये अपील प्रस्तुति में हुआ विलंब क्षमा किये जाने योग्य नहीं है और उक्त विलंब के आधार पर अपील प्रस्तुत किये जाने की अनुमति भी प्रदान नहीं की जा सकती है। अतः उपरोक्त विवेचन के आधार पर अपीलार्थी/अभियुक्त की ओर



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से प्रस्तुत आवेदन-पत्र अंतर्गत धारा 05 परिसीमा अधिनियम निरस्त किया जाता है।

प्रकरण का परिणाम सी.आई.एस. में दर्ज किया जाकर विहित समयावधि में अभिलेखागार प्रेषित किया जाये।"

20. Coming to the application seeking exemption from surrender of the petitioner under rule 48 of M.P. high court rules r/w section 482 CRPC the Rule 48 of MP high court reads as :-

"48. A memorandum of appeal or revision petition against conviction, except in cases where the sentence has been suspended by the Court below, shall contain a declaration to the effect that the convicted person is in custody or has surrendered after the conviction."

21. The case law relied by the state **Deepak Sahu vs. State of M. P. 2012(3) M.P.L.J 534** read as under:-

"5. In Bihari Prasad (supra) the Apex Court held in para 3 as under :— "3. Under the provisions of the Criminal Procedure Code, there is no such requirement though many High Courts in this country have made such provision in the respective rules of the High Court. But it is stated to us that there is no such rule in the Patna High Court Rules. In that view of the matter the High Court was not justified in rejecting the application for revision solely on the ground that the accused has not surrendered." (emphasis supplied). A bare perusal of this paragraph shows that the Apex Court opined that there is no requirement in the Criminal Procedure Code which makes it necessary for the accused to surrender after the conviction. However, the Apex Court opined that certain High Courts have made such provisions in their rules. In Kishore Virvani (supra) this Court held that undoubtedly there is no rule which compels the petitioner to surrender before filing the revision in the High Court. However, a microscopic reading of this judgment shows that the relevant provision of High Court Rule was not specifically brought to the notice of this Court. Rule 48 reads as under :—

"48. A memorandum of appeal or revision petition against conviction, except in cases where the sentence has been suspended by the Court below, shall contain a declaration to the effect that the



convicted person is in custody or has surrendered after the conviction.” (emphasis supplied).

7. The basic question is whether as per Rule 48 aforesaid, it is obligatory for the person to surrender on his conviction before filing of the revision.

8. In the considered opinion of this Court, the language employed in Rule 48 makes it crystal clear that a declaration is mandatory for the accused to the effect that he is in custody or has surrendered after the conviction. The only exception provided in the rule is where the sentence has been suspended by the Court below. In other words, except in cases where a sentence was suspended by the Court below itself, in all other cases there has to be a declaration to the effect that the convicted person is in custody or has surrendered after the conviction. Thus, the intention of rule makers is unambiguous and clear regarding giving of such declaration. Needless to mention that an accused can give such declaration only if he is in custody or surrendered after the conviction. Thus, undoubtedly, the intention of rule is that one has to surrender after conviction or should be in custody except in those cases where sentence has been suspended by the Court. The word “shall” is used to make it mandatory. This is salutary principle of statutory interpretation that when the words of a statute are clear, plain and unambiguous, the Courts are bound to give effect to that meaning irrespective of consequences. *Nelson Motis vs. Union of India*, AIR 19920 SC 1981. “9. The Apex Court also held that “if the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves do alone in such cases best declare the intent of the lawgiver.” (page 50 Principles of Statutory Interpretation) (12th Edition 2010 by Justice G. P. Singh). The Apex Court also opined that when language is plain and unambiguous and admits of only one meaning no question of construction of a statute arises, the Act speaks for itself. In the light of this legal position, I have no hesitation to hold that Rule 48 makes it mandatory for the accused to give declaration about his surrender after the conviction or about the fact regarding his remaining in custody.

10. Since Rule 48, in specific, was not brought to the notice of this Court in *Kishore* (supra), the said judgment is clearly distinguishable on this aspect. On the basis of aforesaid analysis, it is held that a revision petition against conviction is tenable only when it contains a declaration to the effect that the convicted person is in custody or has surrendered after the conviction except in cases where the sentence has been suspended by the Court below.



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11. The matter be posted before the regular bench on Thursday (9-2-2012) for further consideration.”

22. Moreover the case law relied by the petitioner is that

Vivek Rai v. High Court of Jharkhand, (2015) 12 SCC 86 : (2016) 1

SCC (Cri) 56 : 2015 SCC OnLine SC 95 at page 88 which reads

as:-

“2. The Rule in question is as follows:

“159. In the case of revision under Sections 397 and 401 of the Code of Criminal Procedure, 1973 arising out of conviction and sentence of imprisonment, the petitioner shall state whether the petition shall be accompanied by a certified copy of the relevant order. If he has not surrendered the petition shall be accompanied by an application seeking leave to surrender within a specified period. On sufficient cause being shown, the Bench may grant such time and on such conditions as it thinks and proper. No such revision shall be posted for admission unless the petitioner has surrendered to custody in the court concerned.”

3. The case of the petitioners is that they have been convicted and sentenced under Section 498-A of the Penal Code, 1860 (“IPC”) and Sections 3 and 4 of the Dowry Prohibition Act. Against the said conviction and sentence, their appeal has been dismissed and revision petition was filed before the High Court but the same was not registered on account of the impugned Rule 159 as they failed to surrender to custody. It is submitted that this Rule is in conflict with the provisions of the Criminal Procedure Code dealing with the statutory revisional jurisdiction of the High Court and even in a fit case, the High Court cannot consider the revision petition and grant bail unless a convicted person covered by the Rules surrenders to custody. The Rule being subordinate legislation could not militate against the substantive statutory provision. Since the Division Bench of the High Court has upheld [Mahadeo Prasad Shrivastava v. High Court of Jharkhand, 2004 SCC OnLine Jhar 342 : 2004 Cri LJ 4392] the validity of the Rule and the special leave petition was dismissed [Mahadeo Prasad Shrivastava v. State of Jharkhand, SLP (Cri) No. 4890 of 2004, order dated 29-10-2004 (SC), wherein it was directed: “Heard the learned counsel for the petitioner. The special leave petition is dismissed.”] by this Court against the said judgment, the petitioners have no other remedy except to approach this Court under Article 32 as their fundamental rights under Articles 14 and 21 are affected.

4. A counter-affidavit has been filed by the Registrar General of the High Court of Jharkhand opposing the prayer for declaring the Rule to be ultra vires. Reliance has been placed on the judgment of the Division Bench of the High Court in Mahadeo Prasad Shrivastava v. High Court of Jharkhand [Mahadeo



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Prasad Shrivastava v. High Court of Jharkhand, 2004 SCC OnLine Jhar 342 : 2004 Cri LJ 4392] laying down that the Rule could not be held to be arbitrary, discriminatory or illegal. Special Leave Petition (Crl.) No. 4890 of 2004 filed against the said judgment was dismissed [Mahadeo Prasad Shrivastava v. State of Jharkhand, SLP (Cri) No. 4890 of 2004, order dated 29-10-2004 (SC), wherein it was directed:“Heard the learned counsel for the petitioner. The special leave petition is dismissed.”] by this Court. It has also been stated that there is an identical provision in Order 21 Rule 6 of the Supreme Court Rules, 1966 and thus such a provision cannot be held to be arbitrary nor such a provision, in any manner, be held to be inconsistent with Section 389 read with Sections 397 and 401 CrPC. The High Court is competent to frame rules to regulate its procedure. Reliance has also been placed on a judgment of this Court in Mayuram Subramanian Srinivasan v. CBI [Mayuram Subramanian Srinivasan v. CBI, (2006) 5 SCC 752 : (2006) 3 SCC (Cri) 83] laying down that a convicted person is required to surrender under Rule 6 of Order 21 of the Supreme Court Rules, 1966, unless the Court directs otherwise.

5. We have given due consideration to the rival submissions.

6. We do not find any merit in the challenge to the validity of the Rule. It is well-known practice that generally a revision against conviction and sentence is filed after an appeal is dismissed and the convicted person is taken into custody in the Court itself. The object of the Rule is to ensure that a person who has been convicted by two courts obeys the law and does not abscond. The provision cannot thus be held to be arbitrary in any manner. The provision is to regulate the procedure of the Court and does not, in any manner, conflict with the substantive provisions of CrPC relied upon by the petitioners.”

23. This Court, after conducting a precise, detailed analysis of the procedural history and the applicable legal precedents, notes that the sub-ordinate appellate court failed to evaluate the primary statutory appeal on its legal or factual merits. The entire proceeding before the learned IInd Additional Session Judge was brought to an premature close strictly based on a technical limitation bar.

24. Under standard conditions, Rule 48 of the M.P. High Court Rules requires a formal declaration regarding custody or



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surrender to maintain a revision petition, a principle supported by this Court's ruling in Deepak Sahu (supra). The core legislative objective of such a rule as affirmed by the Hon'ble Supreme Court in Vivek Rai (supra) is to prevent convicted persons from evading the law after their conviction has been substantively scrutinized and sustained by two consecutive sub-ordinate Courts.

25. In the present case, however, as no case has been heard on merit by the session court and case was dismissed only upon the bar of limitation, a different operational context arises. The petitioner has been entirely deprived of his initial, critical statutory right of first appeal due to a marginal procedural delay of only 12 days. The substantive merits of his trial conviction have never been subjected to appellate review.

26. Consequently, the rule regarding surrender i.e. Rule 48 will not apply in the present matter. Enforcing a strict surrender requirement at this stage when the first appellate court rejected the petition mechanically on a brief 12-day limitation window would



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result in an excessive procedural hardship not intended by the framework of subordinate Court rules.

27. Upon reviewing the reasoning in the impugned order, it is evident that the learned Session Court adopted a hyper-technical, rigid, and pedantic approach. A short delay of 12 days is minimal and deserves a liberal, justice-oriented construction to advance substantial justice rather than defeating a key statutory right at the threshold. The failure of the lower appellate court to exercise its jurisdiction in a judicious manner constitutes a patent material irregularity and legal impropriety that necessitates revisional intervention.

28. In light of the comprehensive analysis and legal findings detailed above, the present Criminal Revision Petition is hereby allowed. Impugned order is hereby set aside. The order dated 02.04.2026 passed in MJCR No. 148/2026 by the learned IInd Additional Session Judge, Jaora, District Ratlam, is quashed.



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Matter is remanded back. The Session Court is directed to decide the appeal on merits condoning the delay of 12 days.

29. The petitioner/revisionist is directed to approach the Session Court within **30 days**. Concurrently, **IA No. 5618/2026** seeking exemption from surrender stands **allowed** till the petitioner/revisionist approaches the Session Court.

Certified copy as per rules.

(Jai Kumar Pillai)
Judge

Rashmi