IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 760 OF 2025

Dhyan Foundation
A registered Charitable Non-Profit
Organization, through its representative,
Mr. Vedprakash Mishra, Age – 54 years,
Occ: Service, having office at
22, Raja Bahadur Mansion,
2nd Floor, Mumbai Samachar Marg,
Fort, Mumbai – 400 023. ..Petitioner

Versus

1. Google LLC
   Incorporated under the laws of Delware,
   Located at 1600, Amphitheatre Parkway,
   Mountain View, CA 94043.

2. State of Maharashtra ...Respondents

WITH
WRIT PETITION NO. 794 OF 2025

Dhyan Foundation
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1. Google LLC
   Incorporated under the laws of Delware,
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2. State of Maharashtra ...Respondents

Mr. Harish Pandya a/w Adv. Raju Gupta a/w Ms. Mavali Jadhav i/b Mr. Raju Gupta, for Petitioner.

Mr. Aabad Ponda a/w Mr. C. Keswani, Mr. Tanmay Bhave, a/w Ms. Chandrama Raje, i/b Economic Laws Practice, for Respondent No. 1.
Mr. A. D. Kamkhedkar, APP for State.

CORAM	:	N. J. JAMADAR, J.
RESERVED ON	:	21st NOVEMBER 2025
PRONOUNCED ON	:	09th DECEMBER 2025

JUDGMENT:

1. Rule. Rule made returnable forthwith and with the consent of the parties, heard finally.

2. As these petitions have their genesis in the orders passed by the learned Magistrate, in one and the same proceeding, the petitions were heard together and are being decided by this common judgment.

3. The petitioner is a registered charitable non-profit organization. It is promoting the cause of animal welfare. The petitioner works for the rescue, care, treatment and rehabilitation of animals, with the assistance of law enforcement

agencies. YouTube, a social media intermediary, is operated by Google LLC – Respondent No. 1.

4. The petitioner alleges the Respondent No. 1 has allowed to broadcast and publish five *per se* defamatory videos, on YouTube platform. Those videos containing baseless, false and the defamatory imputations against the petitioner were widely circulated. They have the propensity to tarnish the image and reputation of the petitioner.

5. The petitioner thus filed a miscellaneous application, being MA No.4907/2021, before the Metropolitan Magistrate, Ballard Pier, Mumbai. By an order dated 31st March, 2023, the learned Metropolitan Magistrate allowed the said application and directed Respondent No. 1 to stop and remove the circulation of the defamatory videos and the State Government - Respondent No. 2 was directed to enter into correspondence with Respondent No. 1 to comply with the rules framed under Information Technology Act, 2000.

6. Since the Respondent No. 1 failed to delete the offending videos, the petitioner filed another Miscellaneous Application i.e. CC No. Misc/3800448/2023, for initiation of action for disobedience of the order of the Court.

7. The petitioner claims the Respondent No. 1 thereupon approached the Court of Session and filed Criminal Revision Application along with an application for condonation of delay of 116 days. By an order dated 31st December, 2024, the learned Additional Sessions Judge allowed the application for condonation of delay.

8. Being aggrieved, the petitioner has preferred WP No. 760/2025 asserting, *inter alia,* that the said application was allowed in a mechanical manner, without any sufficient cause having been made out by the Respondent No.1.

9. By a further order dated 02nd January, 2025 in the Revision Application No. 04/2025, the learned Additional Sessions Judge stayed the proceedings in CC No. Misc/3800448/2023, initiated by the petitioner for the disobedience of the order passed by the learned Magistrate dated 31st March, 2023. The petitioner has, thus, preferred Writ Petition No. 794/2025 to assail the legality, propriety and correctness of the said interim order.

10. I have heard Mr. Harish Pandya, the learned Counsel for the petitioner, Mr. Aabad Ponda the learned Senior Advocate for the Respondent No. 1, and Mr. A. D. Kamkhedkar learned APP

for the State at some length. With the assistance of learned Counsel for the parties, I have perused the material on record including the pleadings before the Courts below and the impugned orders.

WRIT PETITION NO.760 OF 2025

11. Mr. Pandya, the learned Counsel for petitioner, submitted that, the learned Additional Sessions Judge committed a grave error in law in condoning the delay of 116 days in filing the revision application, though the Respondent No. 1 had not ascribed any reason which could amount to a sufficient cause. Taking the Court through the averments in the application for condonation of delay, Mr. Pandya would urge the only reason that can be discerned from the application is that, the Respondent No. 1 being a large organization was required to have draft of the revision application approved at multiple levels before the same could be finalized and filed before the Court. Such a cause can, under no circumstances, be said to be sufficient to condone the delay of 116 days, submitted Mr. Pandya.

12. As against this, Mr. Ponda, the learned Senior Advocate for Respondent, would urge that, the application for condonation of delay contains adequate grounds which make out a sufficient

cause. In any event, according to Mr. Ponda, the application for condonation of delay deserves to be construed liberally and once the Court of first instance exercises the discretion to condone the delay, the superior Court ought not to likely interfere with such exercise of discretion.

13. Mr. Ponda would further submit that, the developments in the intervening period bear upon the challenge to the impugned order. The revision application was extensively heard by the learned Additional Sessions Judge and the matter was posted for pronouncement of judgment on 08th May, 2025. On that day, when the learned Additional Sessions Judge declined to permit the petitioner to file the written notes of arguments, the learned Judge was informed that, that letters have been addressed to the Hon'ble Chief Justice of the Bombay High Court for transfer of the said revision application to another Court, as the petitioner had lost faith in the said Court. Thus, the matter came to be adjourned to 09th June, 2025. In the backdrop of these developments, according to Mr. Ponda, the challenge does not deserves to be entertained.

14. The roznama of the proceedings in the revision application dated 03rd May, 2025 does indicate that, the arguments were

heard by the learned Additional Sessions Judge and the matter was posted for judgment to 08th May, 2025. On account of the events that unfolded before the learned Additional Sessions Judge on 08th May, 2025, it appears, the learned Additional Sessions Judge was constrained to adjourn the proceedings to 09th June, 2025. There are allegations and counter-allegations in regard to the manner in which the proceedings were conducted before the learned Additional Sessions Judge. This Court does not consider it necessary to delve into those submissions. Suffice to note, the fact remains, the revision application was heard finally and was posted for passing judgment on 08th May, 2025. Nonetheless, this Court considers it appropriate to test the legality, propriety and correctness of order of condonation of delay without being swayed by the aforesaid factor.

15. The principles which govern the exercise of discretion in the matter of condonation of delay are well settled. It is not the length of the delay but the sufficiency of the cause that deserves consideration. Undoubtedly, where the delay is inordinate and unexplained, the length of delay assumes significance. Ordinarily, the Courts adopt a liberal approach in the matter of condonation of delay and lean in favour of condonation of delay so as to advance the cause of substantive justice. This approach

stems from the overarching principle that, the majesty of the Courts lies in deciding the matters on merits rather than on technicalities. Procedure which is a handmaid of justice ought not be allowed to score a march over substantive justice. In the absence of willful negligence or want of bonafide, the Courts are persuaded to construe the sufficiency of the cause liberally.

16. The court is expected to be alive to the remit of jurisdiction where the challenge is to an order condoning the delay. There is a subtle yet significant difference in the approach of the court when the court at the first instance has exercised its discretion to condone the delay and in cases where the application for condonation of delay is rejected by such court. In the former case, since the court below has exercised its discretion in a positive manner to condone the delay, ordinarily the superior court should not interfere with such a finding, as it has the potentiality to promote the cause of substantive justice. However, where the court at the first instance refuses to condone the delay, the superior court is at liberty to reassess the entire matter of condonation of delay and arrive at its own conclusion, *de hors* the conclusion arrived at by the court below.

17. A profitable reference in this context can be made to the oft-quoted decision of the Supreme Court in the case of **N. Balakrishnan Vs. M. Krishnamurthy**[1], wherein the difference n the approach was illuminatingly delineated. The observations in paragraphs 9 to 13 are instructive and, thus, extracted below:

> "9. It is axiomatic that condonation of delay is a matter of discretion of the court Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to want of acceptable explanation whereas in certain other cases delay of very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on whole untenable grounds or arbitrary or perverse. But it is a different matter when the first cut refuses to condone the delay. In such cases, the superior cut would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammeled by the conclusion of the lower court.
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> 10. The reason for such a different stance is thus:
> The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. Time limit fixed for approaching the court in different situations in not because on the expiry of such time a bad cause would transform into a good cause.
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> 11. Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly.

1 (1998) 7 SCC 123

the object of providing a legal remedy is to repair the damage caused by reason of legal injury. Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest *reipublicae up sit finis litium* (it is for the general welfare that a period be putt to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12. A court knows that refusal to condone delay would result foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide ***Shakuntala Devi Jain V/s. Kuntal Kumari (AIR 1969 SC 575)*** and ***State of W.B. V/s. Administrator, Howrah Municipality ((1972) 1 SC 366)***.

13. It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of *mala fides* or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against acceptance of the explanation. While condoning delay the Could should not forget the opposite party altogether. It must be borne in mind that he is a looser and he too would have incurred quiet a large litigation expenses. It would be a salutary guideline that when

courts condone the delay due to laches on the part of the applicant the court shall compensate the opposite party for his loss."

(emphasis supplied)

18. In the case of **Sheo Raj Singh (Deceased) through Legal Representatives & Ors. Vs. Union of India & Anr.[2],** on which reliance was placed by Mr. Ponda, the Supreme Court underscored the difference in the approach, in the following words :-

> *"33. Be that as it may, it is important to bear in mind that we are not hearing an application for condonation of delay but sitting in appeal over a discretionary order of the High Court granting the prayer for condonation of delay. In the case of the former, whether to condone or not would be the only question whereas in the latter, whether there has been proper exercise of discretion in favour of grant of the prayer for condonation would be the question. Law is fairly well-settled that 'a court of appeal should not ordinarily interfere with the discretion exercised by the courts below'. If any authority is required, we can profitably refer to the decision in Manjunath Anandappa v. Tammanasa, which in turn relied on the decision in Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha where it has been held that: 'an appellate power interferes not when the order appealed is not right but only when it is clearly wrong'."*

19. Reverting to the facts of the case, in the light of the aforesaid enunciation of law and applying the principles expounded therein, it becomes evident that, the learned Additional Sessions Judge was also influenced by the fact that,

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2 (2023) 10 SCC 531

the principal grievance of the Respondent No. 1 was that the order impugned in the revision was passed without jurisdiction. In this context as well, the legal position is absolutely clear. The Court ought not start with the merits of the matter, while determining an application for condonation of delay. It is only after appreciation of the sufficiency of the cause ascribed for the condonation of delay and weight of the resistance thereto, the Court may look into the merits of the matter to tilt the scale in favour of condonation of delay.

20. A useful reference in this context can be made to a recent judgment of the Supreme Court in the case of **H. Guruswamy and others vs. A. Krishnaiah since deceased by LR(s)**[3], wherein the Supreme Court expounded as to how and when the merits of the matter may come into play while deciding an application for condonation of delay, as under:

> "16. The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against

3 2025 SCC OnLine SC 54.

> the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay."
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> (emphasis supplied)

21. In the application for condonation of delay, the Respondent has contended that, the time was consumed in taking the decision with regard to filing of revision and in finalizing the draft as the Respondent No. 1 is a large and multi-layered organization. In addition, reference to the merits of the order impugned in the revision and the consequences that may ensue if delay is not condoned, is made.

22. If the cause ascribed by the Respondent No. 1 is considered in the light of the period of delay, it cannot be said that, the Respondent No.1 had not ascribed any cause. The cause ascribed by the Respondent No.1 cannot be said to be wholly unsustainable. It does not appear that, there was negligence or lack of bonafide on the part of the Respondent No. 1. The exercise of discretion by the learned Additional Sessions Judge, therefore, cannot be termed as arbitrary or perverse.

23. As the learned Additional Sessions Judge has exercised positive discretion to condone the delay, in exercise of the supervisory jurisdiction, this Court does not find it expedient to interfere with the impugned order which promotes cause of determination of the lis on merits rather than on technicalities.

24. Resultantly, the challenge to the order condoning the delay fails.

CRIMINAL WRIT PETITION NO. 794/2025

25. Assailing the order dated 02nd January, 2025 whereby the learned Additional Sessions Judge stayed the further proceedings in CC No. Misc/3800448/2023 Mr. Pandya would urge, with a decree of vehemence that, the said order was passed when there was no challenge to the said order in the revision application. It was further submitted that, the learned Additional Sessions Judge passed the impugned order dated 02nd January, 2025 without providing an effective opportunity of hearing to the petitioner. The contention on behalf of respondent that there was jurisdictional error in passing the order dated 31st March, 2023 in CC No. 4907/SS/2021 was stated to be wholly incorrect. The Court is competent to pass such order directing the intermediary to remove the offending content.

Therefore, the impugned order dated 02nd January, 2025 which stayed the proceedings initiated by the petitioner for disobedience of the order dated 31st March, 2023 was wholly illegal and unsustainable.

26. Per contra, Mr. Ponda would urge that, there is indeed a prayer in the revision application to stay the effect and operation of order dated 31st March, 2023. Since the learned Magistrate by order dated 31st March, 2023 had disposed of CC No. 4907/SS/2021, the Respondent No. 1 could only pray for staying the effect and operation of said order and the application bearing CC No. Misc/3800448/2023 preferred by the petitioner was, in essence, for the enforcement of the said order dated 31st March, 2023. As the learned Additional Sessions Judge has found that, a *prima facie* arguable case was made out, the learned Additional Sessions Judge was well within his rights in staying the further proceeding in CC No. Misc/3800448/2023.

27. To buttress the submission that, the Magistrate has no jurisdictional competence to pass an order to block the website and direct removal of the alleged offending content under Section 69-A of the Information Technology Act, 2000 and the

Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009, Mr. Ponda placed a very strong reliance on the judgment of Tripura High Court in the case of **State of Tripura Vs. Sri. Soumen Sarkar**[4], decided on 22nd January, 2021.

28. Mr. Pandya joined the issue by canvassing a submission that, the aforesaid decision rendered by the High Court of Tripura did not consider the Division Bench judgment of the High Court of Andhra Pradesh in the case of the **High Court of Andhra Pradesh Vs. State of Andhra Pradesh**[5], decided on 12th October, 2020, wherein the Division bench of the High Court had directed the Central Bureau of Investigation to take steps to block the users who post the offending content. Therefore, Mr. Pandya would urge, it cannot be said that, when per se defamatory and offending content is circulated, the Court is denuded of the power to order its removal.

29. At this stage, it is necessary for this Court to observe caution, as the criminal revision application wherein the challenge to the jurisdiction of the learned Magistrate to pass an order directing Respondent No.1 to stop and remove the

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4 Crl. Petn. No. 51/2020

5 WP No. 9166/2020

offending content is yet to be adjudicated. There is a clear and present danger of the observations made by this court influencing the adjudication by the Court of Session. Therefore, this court does not consider it appropriate to delve into the question of jurisdictional competence of the learned Magistrate to pass the order dated 31 March 2023, in detail. The existence of prima facie case would be required to be evaluated only from the standpoint of the justifiability of the order of stay to the proceedings before the learned Magistrate in CC Misc No.3800448 of 2023.

30. Section 69-A of the Information Technology Act, 2000 empowers the Central Government or any of its officers specially authorized to direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource. The Central Government or the specially authorized officer may exercise the said power, if it or he is satisfied that it is necessary or expedient to do so for specified reasons, namely, in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign State or public order or for preventing incitement to the

commission of any cognizable offence relating to the aforesaid grounds. The Central Government or the specially authorized officer is enjoined to record reasons in writing for issuing such directions.

31. Sub-section (2) of section 69-A provides that the procedure and safeguards, subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed. In exercise of the rule making power, the Central Government has framed the Information Technology (Procedure and Safeguards for Blocking for access of Information by Public) Rules, 2009.

32. Interpreting the provisions of the Rules, 2009, especially Rule 10, which deals with process of order of the Court for blocking of information, the Chief Justice of the High Court of Tripura in the case of the **State of Tripura V/s. Sri Soumen Sarkar**[6] enunciated that, the source of power for blocking any access to the members of the public, therefore, flows from sub-section (1) of section 69-A of the Act, and, none of the rules particularly Rule 5 or Rule 10 of the said Rules can be seen as vesting a particular Court with such powers if it otherwise does not possess. Rule 10 is not a source of power of a Magistrate to

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6 Cri. Petition No.51 of 2020

pass such an order. Unless and until it is established that, outside the said Rules, the Magistrate has the power to order blocking of the information, recourse to Rule 10 of the said Rules cannot be had. Blocking circulation of any information sought to be put in public domain by someone would be curtailing his right to freedom of speech and expression and corresponding limitation on the right of the public to access information. Power to curtail free speech cannot be recognized without specific statutory provision with proper safeguards.

33. In the case of **the High Court of Andhra Pradesh at Amaravati (supra)**, on which reliance was placed by Mr. Pandya, the fact situation was completely different. In the peculiar and rather grave facts, where the authority and dignity of the High Court of Andhra Pradesh was sought to be undermined by posting abusive and defamatory content in relation to the High Court and its Judges on different sites on social media and even in the interviews given to the electronic media, the High Court, on its administrative side, had filed a Petition. In those peculiar facts, the Division Bench of the High Court had entrusted the investigation to CBI and observed that the CBI may take steps so that all defamatory posts available on social media be struck

down and to block the users who were posting such defamatory posts, in accordance with law.

34. I am afraid, the aforesaid decision would govern the facts of the case at hand. From the perusal of the provisions contained in Section 69-A and the Rules, 2009, *prima facie*, the view formed by the learned Additional Sessions Judge about the jurisdictional competence of the learned Magistrate to pass the order dated 31 March 2023, cannot be faulted at.

35. The submission of Mr. Pandya that no order passed in CC No. Misc/3800448/2023 was under challenge before the learned Additional Sessions Judge, and, therefore, no interim order could have been passed in the revision application, is required to be stated to be repelled. In the revision application, as noted above, by way of interim relief, respondent No.1 had prayed to stay the effect and operation of the order dated 31 March 2023. What the Petitioner was seeking in CC No. Misc/3800448/2023 was action for disobedience of the said order dated 31st March 2023. Thus, it cannot be said that there was no nexus between the challenge in the revision application and the impugned order dated 2nd January 2025, staying further proceedings in CC No. Misc/3800448/2023.

36. For the foregoing reasons, this Court does not find any justifiable reason to interfere with the order granting stay to the further proceedings in CC No. Misc/3800448/2023, till the final decision of the revision application.

37. Resultantly, both the Writ Petitions deserve to be dismissed.

38. Hence, the following order:-

::ORDER::

(i) Writ Petition No. 760/2025 and Writ Petition No. 794/2025 stand dismissed.

(ii) Rule discharged.

(iii) No costs.

[N. J. JAMADAR, J.]