

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MP(M) No. 1047 of 2025****Reserved on: 08.01.2026****Date of Decision: 23.02.2026.**

Kishori Lal**...Applicant/Petitioner****Versus****Surender Kumar****...Non-applicant/Respondent**

Coram***Hon'ble Mr Justice Rakesh Kainthla, Judge.******Whether approved for reporting?¹ No*****For the Petitioner : Ms Anu Tuli, Advocate.****For the Respondent : Ms Preetika Thakur, Advocate.**

Rakesh Kainthla, Judge

The present application has been filed for condonation of 130 days' delay in filing the revision. It has been asserted that the matter was decided on 12.12.2024 in the absence of the applicant/petitioner. The applicant was never informed about the date of the hearing. The Court had issued the summons, which was received by the applicant's father, but he failed to communicate the date of the hearing to the applicant. The applicant did not appear before the Court, and his complaint was

dismissed for non-prosecution. The complainant could not visit the Court or contact his counsel during the winter vacation and could not learn about the dismissal of the complaint. The complainant had enquired from his counsel about the complaint in March 2025, and he was told that the complaint was dismissed in default on 12.12.2024. The applicant applied for a copy of the order and approached the learned counsel. There is a delay in filing the revision, which is due to circumstances beyond the applicant's control. Hence, the application.

2. The application is opposed by filing a reply asserting that the applicant was duly served and was aware of the proceedings. The applicant was duty-bound to act with due diligence and establish sufficient cause for the delay in filing the revision. He has failed to disclose any reason for the condonation of the delay. Therefore, it was prayed that the present application be dismissed.

3. I have heard Ms Anu Tuli, learned counsel for the applicant/ petitioner and Ms Preetika Thakur, learned counsel for the respondent/accused.

4. Ms Anu Tuli, learned counsel for the applicant/complainant, submitted that the notice was served on the applicant's father, but he failed to communicate the date of the hearing to the applicant. The applicant could not appear before the Court, and the Court dismissed the complaint in default; hence, she prayed that the present application be allowed and the delay in filing the revision be condoned. She relied upon the judgments in *Amit Kumar Singh vs. State of U.P.* 2024:AHC-LKO:24383 and *Jaswant Singh vs. Anil Kumar* 2024:PHHC:162587 in support of her submission.

5. Ms Preetika Thakur, learned counsel for the respondent/accused, submitted that the applicant was duly served, but he failed to appear before the Court. The Court was justified in dismissing the complaint in the absence of the complainant. The applicant has failed to show any reasonable cause for non-appearance before the Court. Therefore, she prayed that the present application be dismissed.

6. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

7. The record shows that the notice was issued to the applicant/petitioner for his appearance before the Court on 12.12.2024. The notice was duly served upon the applicant's father, and he made an endorsement to this effect on the summons. Section 64 of the Code of Criminal Procedure (Cr.P.C.) provides that where the person summoned cannot be found despite the exercise of due diligence, the summons may be served by leaving one of the duplicates with some adult male member of the family residing with him. It is not disputed that the summons was served upon the applicant's father, who was residing with the applicant. Therefore, the summons was served as per the law.

8. It was submitted that the applicant's father failed to communicate the date of the hearing to him, and the applicant had a reasonable cause for non-appearance on the date of the hearing. This submission will not help the applicant. The matter is between the applicant and his father. When the law requires that the summons be left with the adult male member of the family, it is as good as leaving the summons with the applicant, and the plea that the applicant was not told about the date of the hearing by his father will not help him. Accepting the plea that the applicant was not told about the hearing by his father will

defeat the statutory provision that provides that the service upon the adult male member of the family is as good as the personal service.

9. Thus, the applicant would be deemed to be aware of the fact that he was required to be present before the Court on 12.12.2024; it was incumbent upon him to find out what transpired on the date of the hearing. He cannot take shelter behind the plea that he was not told about the date of the hearing, and the order was passed in his absence. The absence of the applicant was due to his acts, and a person cannot take advantage of his own wrong; therefore, this plea will not help the applicant.

10. The applicant mentioned that he enquired from his counsel in March, 2025 about his case, and he found out that the matter was dismissed in default on 12.12.2024. He has not assigned any reason for not enquiring from 12.12.2024 till March, 2025. Thus, he has failed to disclose a sufficient reason for not filing the revision within the time.

11. The judgments cited at bar do not apply to the facts of the present case. In *Amit Kumar Singh* (*supra*) and *Jaswant Singh* (*supra*), the Courts were concerned with the interpretation of

Sections 203 and 249 of Cr.P.C., which are not relevant in the present case. Thus, no advantage can be derived from the cited judgments.

12. No other point was urged.

13. In view of the above, the present application fails, and it is dismissed.

Cr. Revision Filing No.3134 of 2025

Since the application for condonation of delay has been dismissed, the proposed revision petition is dismissed as barred by limitation. The proposed revision stands disposed of, and so also the pending miscellaneous applications, if any.

(Rakesh Kainthla)
Judge

23rd February, 2026.
(Nikita)