



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK KUMAR SINGH

&

HON'BLE SHRI JUSTICE AJAY KUMAR NIRANKARI

ON THE 24th OF MARCH, 2026

FIRST APPEAL No. 1871 of 2025

AMEER ALI

Versus

SMT. FAREEDA BANO

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Appearance:

Shri Rajendra Yadav - Advocate for the appellant.

Shri Brijesh Kumar Mishra - Advocate for the respondent.
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ORDER

Per: Justice Ajay Kumar Nirankari

Heard on I.A.No.22263/2025, which is an application under Section 5 of the Limitation Act for condonation of delay in filing the instant appeal.

As per averments made in the application, the instant appeal is barred by 129 days.

The delay has been caused in filing the instant appeal due to poor financial condition of the appellant.

Learned counsel for the respondent instead of filing response to said application, filed certified copies of trial Court of MJCR No.147/2022 under Section 125 (3) of Cr.P.C. bearing document No.2781/2026 and submitted that the appellant has not complied the order of maintenance passed by the competent Court. Thus, the delay in filing the instant appeal is not based on



bonafide.

Considering the reasons assigned in the application, the aforesaid application filed by the appellant is hereby **allowed**.

The delay caused in filing the instant appeal is hereby condoned.

2. At this juncture with the consent of both the parties, the matter is heard finally.

3. The instant appeal has been filed under Section 19 of Family Court Act, 1984 against the order dated 09.05.2025 passed by Principal Judge, Family Court, Chhatarpur in RCSA No.6A/2022 whereby the petitioner's application under Section 2 of Mohammedan Law for grant of decree of divorce was dismissed on the ground that the appellant has not deposited/paid 50% amount of interim maintenance and litigation expenses.

4. The facts in brief are that Nikah of appellant and respondent has taken place in the year 2006 as per Muslim tradition and rituals. Due to their disputes differences were created between them. Thus, counsel for the appellant filed an application under Section 2 of Mohammedan Law for grant of decree of divorce before the Principal Judge, Family Court, Chhatarpur which was registered as RCSA No.6A/2022. After issuance of notice, the respondent appeared before the said Court and filed an application for interim maintenance. Thereafter, vide order dated 02.09.2024 interlocutory application was allowed in favour of respondent and appellant was directed to pay interim maintenance of Rs.2000/- per month to the respondent and Rs.300/- on each appearance for litigation expenses but the appellant has not complied the said order and on the objection of respondent,



the trial Court vide order dated 04.04.2025 subject to deposition of 50% amount of arrears of interim maintenance as well as litigation expenses granted time for leading evidence. The application of appellant was dismissed vide order dated 09.05.2025 due to non-compliance of previous order dated 04.04.2025.

5. Against the said order, the instant appeal has been preferred by the appellant.

6. Learned counsel for the appellant submits that the financial condition of appellant is very poor and now he arranged 50% of arrears of interim maintenance and litigation expenses and ready to pay the said amount to the respondent. Thus, he prays for restoration of divorce proceedings bearing RCSA No.6A/2022.

7. Learned counsel for the respondent submits that the appellant in order to harass the respondent has not complied the said order by which he was directed to pay the 50% amount of interim maintenance and litigation expenses. He further submits that there is already an order against him for grant of maintenance under Section 125 of Cr.P.C and in the said proceeding. The total outstanding amount is more than Rs.3 Lakhs and execution proceeding is also going on, if the appeal is allowed, the execution proceedings both affect directly.

8. Heard learned counsel for both the parties and perused the record.

9. The application for divorce under the provision of Mohammedan Law was dismissed by the Family Court, vide impugned order dated 09.05.2025 only on the sole ground that the appellant has not paid 50%



arrears of interim maintenance and litigation expenses as well as he has not produced any ocular evidence in support of his allegations. During the arguments, counsel for the appellant submits that he has arranged 50% amount of total outstanding amount of interim maintenance and litigation expenses.

10. Considering the aforesaid submissions as well as the aspect that a person could not be debarred from his legal rights only on the basis of financial incapability. Thus, the impugned order dated 09.05.2025 deserves to be set-aside.

11. Accordingly, the appeal filed by the appellant is allowed and impugned order dated 09.05.2025 is set-aside.

12. The original proceedings bearing registration RCSA No.6A/2022 of Principal Judge, Family Court, Chhatarpur is restored on its original number.

13. Both the parties are directed to appear before the Family Court, Chhatarpur on 06.04.2026.

14. The Family Court, Chhatarpur is directed to proceed in the matter and decide it on its own merit.

(VIVEK KUMAR SINGH)
JUDGE

(AJAY KUMAR NIRANKARI)
JUDGE