

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

Crl. Appeal No.D-150-DB of 2015(O&M)

Date of Decision: March 26, 2015.

Tara Singh

.....APPELLANT(s).

VERSUS

State of Punjab and others

.....RESPONDENT(s).

**CORAM:- HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Vinod Ghai, Senior Advocate with
Mr. Vishavjit S. Virk, Advocate
for the appellant (s).

S.S. SARON, J.

Tara Chand-appellant has filed this appeal against the acquittal of respondents No.2 to 6 by learned Additional Sessions Judge, Ferozepur vide her judgment and order dated 26.02.2013.

Along with the appeal, criminal miscellaneous application has been filed seeking condonation of 615 days' delay in filing the appeal.

It is to be noticed that respondents No.2 to 6 have been acquitted. In the application seeking condonation of delay, it is submitted that delay in filing the appeal occurred due to the fact that the applicant-appellant was convicted in the cross-case in the same FIR. He was made to understand by his co-convict in jail that there was no need to file a separate

appeal against the acquittal of respondents No.2 to 6 as it was one FIR only. The applicant-appellant has filed an appeal against his conviction in the said FIR. It was later on when the applicant-appellant contacted his counsel at Chandigarh, he came to know that a separate appeal against acquittal was to be filed. Therefore, in the said circumstances, a delay of 615 days has occurred in filing the appeal, which it is stated, is neither intentional nor willful and if the delay in filing the appeal is not condoned, then the applicant-appellant will suffer irreparable loss inasmuch as his defence in the case in which he has been convicted may be affected.

Learned senior counsel appearing for the appellant submits that the appeal of the appellant against his conviction i.e. Criminal Appeal No.D-243-DB of 2013 is pending in this Court. In case, the present appeal is not ordered to be heard along with the said appeal, the defence of the appellant in the said criminal appeal i.e. Criminal Appeal No.D-243-DB of 2013 may be affected as the applicant-appellant may not be able to urge effectively the cross-version that has been set up. Therefore, it is submitted, delay in filing the appeal may be condoned and the appeal be listed along with the connected appeal of the appellant against his conviction.

We are of the view that the said connected appeal filed by the applicant-appellant is to be considered on the basis of evidence and material on record in the said case. The present appeal is sought to be filed against the acquittal of respondents No.2 to 6 for the offences punishable under Sections 326, 324, 323 read with Section 34 of the Indian Penal Code for which they were charged vide order dated 29.11.2007. The evidence recorded in the present case, is not to be considered or gone into in the other

case. The Court though is quite liberal in condoning the delay. However, the delay in the present case is quite substantial and it would be injudicious to entertain the appeal after expiry of 615 days' delay in filing the appeal merely because the connected appeal filed by the appellant against his conviction is pending. Whatever the defence the appellant has taken in the said appeal filed by the applicant-appellant is to be considered in the said case. In case a cross-version or a cross-case is set up in the said case that may be urged in the said appeal.

In the circumstances, learned senior counsel for the applicant-appellant submits that without prejudice to the rights of the applicant-appellant in the connected appeal, he may be allowed to withdraw the criminal miscellaneous application seeking condonation of delay in filing the appeal and also the appeal.

Accordingly, the criminal miscellaneous application seeking condonation of delay in filing the appeal and the Criminal Appeal No.D-150-DB of 2015 are dismissed as withdrawn.

However the withdrawals of the application seeking condonation of delay and the appeal would not prejudice, in any manner, the rights of the applicant-appellant in the connected appeal.

(S.S. SARON)
JUDGE

(SURINDER GUPTA)
JUDGE

March 26, 2015.
Sachin M.