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

CRR No.1848 of 2015

Date of decision: August 19, 2015

Amar Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Amardeep Singh Mann, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 18.02.2015, whereby, delay in filing the appeal was condoned by the Appellate Court.

I have heard learned counsel for the petitioner and have gone through the record available on the file carefully.

Petitioner and his co-accused had faced trial in FIR No.103 dated 02.06.2005, registered under Sections 409 of Indian Penal Code, 1860, at Police Station Bhikhi. Trial Court ordered the acquittal of the accused vide order dated 24.03.2012. Complainant filed an appeal against the said order. Along with the appeal, an application was filed by the complainant seeking condonation of delay in filing the appeal. Vide the impugned order, application moved by the complainant for condonation of delay in filing the appeal, was allowed. Hence, the present petition by the petitioner.

It has been held by the Apex Court in **Collector**

Land Acquisition Ananatnag and others vs. Mst. Katiji

and others, AIR 1987 SC 1353 which reads as under:-

“1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. “Every day's delay must be explained” does not mean that a pedantic approach should be made. Why not every hour's delay every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical consideration are pitted against each other cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides.

A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.”

The plea taken by the complainant was that the delay in filing the appeal was not intentional. In fact, it was

under the impression that limitation for filing an appeal against the order of acquittal was ninety days, whereas, in fact, it was sixty days. Due to this reason, delay in filing the appeal had occurred. In the facts and circumstances of the present case, learned Appellate Court rightly came to the conclusion that the delay in filing the appeal could not be said to be intentional or deliberate. Moreover, now the appeal will be disposed of on merits.

Hence, no ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

August 19, 2015
mahavir