

Crl.M.P.No.9965 of 2016
in
Crl.A.Sr.No.40728 of 2016

M.VENUGOPAL, J.

The Petitioner/Appellant/Complainant has preferred the instant Miscellaneous Petition praying for passing of an order by this Court to condone the delay of 110 days in preferring an Appeal against the Judgment of Acquittal of the Respondents/A1 and A2 passed by the Learned Judicial Magistrate No.III, Salem in C.C.NO.347 of 2006 dated 29.02.2016.

2.According to the Petitioner/Appellant/Complainant, the delay of 110 days in question has occurred in the present case because of the reason that soon after filing of copy application being filed on 21.03.2016 and after obtaining the Judgment copy on 24.03.2016 from the trial Court, an opinion was sought from the Assistant Public Prosecutor of the Learned Judicial Magistrate No.III, Salem, who tendered his opinion on 11.05.2016. Thereafter, his opinion was forwarded to the Director of Drugs Control, Tamil Nadu, Chennai, who in turn, forwarded the same to the Government i.e. Health and Family

Welfare Department, Secretariat, Chennai on 07.06.2016. Further, the Government, in turn, had forwarded the proposal to prefer an Appeal to the Learned Public Prosecutor, High Court, Madras as per letter dated 22.06.2016.

3.It transpires that after obtaining an opinion from the Learned Public Prosecutor, High Court, Madras on 27.06.2016, the Principal Secretary to Government, Health and Family Welfare Department had addressed a letter to the Director of Drugs Control, Chennai dated 13.07.2016 requesting to take necessary follow up action to prefer an Appeal and in turn, the Assistant Director of Drugs and Control, Salem, through his letter dated 19.07.2016, had directed the Assistant Director of Drugs Control, Salem to approach the Learned Public Prosecutor to prefer an Appeal against the Judgment of Acquittal passed by the trial Court. Ultimately, the Appeal was preferred before this Court on 19.09.2016. In this process, there has occasioned a delay of 110 days, which is neither wilful nor wanton but due to the aforesaid reasons.

4.Per contra, it is the submission of the Learned Counsel for the Respondents 1 and 2 that the period of limitation to prefer an Appeal against Acquittal is enshrined under Section 157 of the Limitation Act, 1963 and in fact, the Appeal is to be preferred within 60 days and due to 'Exigencies' of official business, administrative delay and communication, the period of limitation ought not to be enlarged on that score.

5.In short, it is the plea of the Respondents that no credible reasons were assigned in the Affidavit in CrI.M.P.No.9965 of 2016 filed by the Petitioner and in fact, the Petitioner/Appellant, being a Government, ought to have been more vigilant in prosecuting its case, especially before a Court of Law.

6.This Court has heard the submissions of the Learned Government Advocate (CrI. Side) appearing for the Petitioner/Appellant and the Learned Counsel appearing for the Respondents.

7.It is to be borne in mind that when a Court of Law deals with a Petition for 'Condonation of Delay', ordinarily, it is to adopt a lenient and liberal view, overriding either technicalities or hyper technicalities. As a matter of fact, a pedantic approach is to be avoided by a Court of Law, instead, it can adopt a practical, purposeful, meaningful, pragmatic and rational approach with a view to sub-serve the ends of Justice, when the Condonation Petition is taken up for hearing. By and large, no litigant/party prefers an Appeal/Revision or any other legal proceedings before a Court of Law with an intentional delay. In fact, if it is done like that, he or she runs a serious risk.

8.It cannot be forgotten that if a 'Condone Delay Petition' is allowed by a Court of Law, then, the highest thing that would happen is an opportunity will be provided to the affected/concerned party to take part in the main stream of proceedings. Per contra, if the said 'Condone Delay Petition' is dismissed at the initial stage, there is an even possibility to throw over board a meritorious case at the inception itself.

9.In view of the upshot and this Court, taking note of the fact that

the Petitioner/Appellant, in the Affidavit in Crl.M.P.No.9965 of 2016, had referred to the delay of 110 days in preferring the Appeal mainly because of administrative reasons and also by taking a lenient and liberal view, condones the delay of 110 days, to advance the cause of Justice.

10.In fine, the Crl.M.P.No.9965 of 2016 is allowed.

22.12.2016

Index : Yes / No
Internet : Yes / No
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