

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.1000 of 2016

ORDER :

This Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure (Cr.P.C.), challenging the order dated 25.01.2016, passed in Crl.M.P.No.960 of 2015 on the file of the Metropolitan Sessions Judge, Hyderabad, as illegal and improper.

A perusal of the material on record would show that the respondent-informant filed a private complaint against the accused for an offence punishable under Section 138 of Negotiable Instruments Act. The case was taken on file as C.C.No.1048 of 2013 on the file of XVI Additional Judge – cum – XX Additional Chief Metropolitan Magistrate at Hyderabad. After a full-fledged trial, the said case ended in an acquittal. Challenging the same, the informant is said to have preferred an appeal with a delay of 75 days which was allowed on 25.01.2016. Aggrieved by the same, the present revision is filed.

Learned counsel for the petitioner mainly submits that the informant failed to explain the day to day delay in preferring the appeal and as such the order condoning the delay is illegal and improper.

A perusal of the material on record would show that there is no dispute with regard to the delay of 75 days in preferring the appeal. The Apex Court in catena of cases has held that if the delay is reasonably explained, the Courts shall give an opportunity to the parties and decide the matter on merits. In ***Collector, Land Acquisition, Ananthnagh and others Vs.MSD Kasturi and***

others^[1], the Apex Court held that the approach of the Court must be to do even handed justice on merits in preference to the approach which scuttles a decision on merits. It has further observed as follows:

The legislature has conferred the power to condone delay by enacting section 5 of the Indian Limitation Act of 1963, in order to enable the Courts to do substantial justice to parties by disposing of matter on merits. The expression sufficient cause employed by the legislature is adequately elastic, to enable the Courts to apply the law in a meaningful manner which subserves the ends of justice that being the life purpose for the existence of the custodian of Courts. It is common knowledge that this Court has been making a justifiable liberal approach in matters instituted in this Court, but the message does not appear to have percolated down to all the other Courts in the hierarchy, and such a liberal approach is adopted on the principle as it is realized that:

- (i) Ordinarily a litigant does not stand to benefit by lodging an appeal.
- (ii) 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.
- (iii) “Every days 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.

(iv) When substantial justice and technical considerations are fitted against each other, cause of substantial justice deserves to be preferred, for the otherside cannot claim to have vested right in injustice being done because of a non-deliberate delay.

(v) There is no presumption that delay is occasioned deliberately or on account of the culpable negligence or on account of malafides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.

(vi) It must be agreed that judiciary is respected not on account of its power to legalise injustice on technical grounds, but because it is capable of removing injustice and is expected to do so. Making a justice oriented approach from this prospect there was sufficient cause for condoning the delay in the institution of the appeal.

Having regard to the judgment referred to above and since the cheque amount is about Rs.2,87,000/-, delay of 75 days in preferring an appeal can be condoned.

Having regard to the above, the order under challenge warrants no interference and accordingly, the Criminal Revision Case is dismissed.

As a sequel, Miscellaneous Petitions, if any, pending in this revision shall stand closed.

JUSTICE C. PRAVEEN KUMAR

12.04.2016.

vhb

[\[1\]](#) AIR 1997 SC 1353