

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-A-1993-MA-2015 (O&M)

Date of decision: 11.01.2016

Varinder Kumar

.....Applicant

versus

Kali Dass

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Inderjit Sharma, Advocate for the applicant

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

This application for grant of leave to appeal has been filed against the order dated 3.6.2014, passed by the learned Judicial Magistrate 1st Class, Gurdaspur, vide which complaint of the applicant filed under section 138 of the Negotiable Instruments Act, 1881 was dismissed.

Along with the application for leave to appeal, an application has been filed under Section 5 of the Limitation Act for condonation of delay of 488 days in filing the same. It is stated that counsel for the applicant had advised him that appeal against the acquittal will be filed before learned Sessions Judge, Gurdaspur. Applicant believed his counsel but on 27.11.2015, counsel for the applicant informed him that appeal against acquittal would lie before

the High Court at Chandigarh. Hence, the delay of 488 days in filing the application for leave to appeal has occurred. Application is supported by an affidavit of the applicant.

I have heard learned counsel for the applicant and have also carefully gone through the file.

It comes out that there is huge delay of 488 days in filing the application for leave to appeal. It is stated that counsel had advised him that appeal will lie before Sessions Court. However, it is not alleged that any appeal was filed before the Sessions Court by the counsel. No affidavit of the counsel has been placed on file. Therefore, self serving affidavit of the applicant is not sufficient to believe that counsel advised him that appeal will be filed before the Sessions Court and apparently did not file the same. No ground is made out to condone the huge delay of 488 days in filing the application for leave to appeal.

Accordingly, application for condonation of 488 days delay is dismissed. Consequently, the application for leave to appeal is also dismissed.

11.01.2016
gk

(Kuldip Singh)
Judge