

**CRM No. 5480 of 2015 in/and
CRM-A-240-MA of 2015
DECIDED ON: FEBRUARY 02, 2016**

.....PETITIONER

....RESPONDENTS

1. Whether Reporters of local papers 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?

CRM No. 5480 of 2015

By virtue of this order, this Court intends to dispose of an application under Section 5 of Limitation Act read with Section 482 Cr.P.C. seeking condonation of delay of 291 days' in filing the application for grant of leave to appeal.

2. The facts giving rise to the instant application are that the complaint No. 44 dated 23.12. 2011 captioned as Harbans Singh vs. Jagir Singh and others

was pending disposal in the Court of learned SDJM, Sunam, which has been dismissed in default for want of prosecution vide order dated February 19, 2014.

3. It has been contended by learned counsel for the applicant that the applicant was not aware about the limitation of the case due to which he could not prefer an appeal within the stipulated period. Thus, a delay of 291 days' has occurred in filing the application for grant of leave to appeal. He further contends that the delay if any occurred is neither intentional nor malafide but has occurred due to above-referred fact. Even, otherwise, applicant is not going to be benefitted. Accordingly, he prays that the delay of 291 days' be condoned and application for grant of leave to appeal be decided on merits.

4. This Court has given a deep thought to the submissions made by learned counsel for the applicant but find the same to be of no legal or factual weight.

5. Ignorance of law is no excuse. A perusal of the impugned order transpires that complaint was filed on December 23, 2011 by the applicant, which remained pending in the Court of learned SDJM, Sunam approximately for a period of more than 3 years. As the complainant did not opt to appear to proceed with the afore-said complaint and slipped away from the proceedings, it was dismissed in default for its non prosecution vide order dated February 19, 2014. Even, thereafter, the applicant slept over the matter for a period of more than 290 days, he does not appeal to reason that he was not aware about the dismissal of the complaint preferred by him. Rather, it can be safely inferred that after the dismissal of complaint by learned SDJM, Sunam, he did not intend to prefer any appeal or revision thereof, but subsequently for the reasons close

to his chest, he filed the instant application. It cannot be said that the delay is unintentional. Rather, the delay smells out some malafide on the part of the applicant. Moreover, no explanation has been put forth by the applicant for an inordinate delay of more than 9 months. Accordingly, instant application is dismissed.

CRM-A-240-MA of 2015

In view of order passed in the afore-said application, instant application for grant of leave to appeal stands also dismissed.

**FEBRUARY 02, 2016
sham**

**(JASPAL SINGH)
JUDGE**