

\$~74

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.L.P. 358/2016

SHIV KUMAR SINGH Petitioner
Through : Mr. A.K. Thakur, Adv.

versus

STATE AND ANOTHER Respondents
Through : Mr. Mukesh Kumar, APP

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

% **ORDER**
19.07.2016

Crl. M.A. No. 10744/2016 (for condonation of delay in re-filing)

Delay in re-filing is condoned. Application is disposed of.

Crl. M.A. No. 10743/2016 (exemption)

Allowed, subject to all just exceptions. Application is disposed of.

Crl. M.A. No. 10742/2016 (for condonation of delay in filing) in CRL.L.P. 358/2016

By this application, petitioner has prayed that delay of 1283 days, in filing the petition for leave to appeal, against the order of the Additional Senior Civil Judge, Delhi; whereby his complaint was dismissed, be condoned.

Petitioner has explained the delay of 1283 days by saying that initially he had filed an appeal before the Sessions Judge on 4th December, 2012 which was dismissed vide order dated 16th October, 2015 since it was not maintainable. It is further submitted that after 16th October, 2015 leave to appeal petition could not be filed as petitioner's mother fell ill and expired in the month December, 2015. In the month of March, 2016 one of the brothers of petitioner suffered heart attack and had to undergo bypass surgery.

I have considered the grounds taken by the petitioner and am of the view that the ground furnished are not sufficient grounds to explain the inordinate delay of seven months in filing the petition, after dismissal of the appeal by the Sessions Judge. Even if the appeal period before the Sessions Judge is excluded there is delay of about seven months in filing the present petition. Petitioner ought to have taken prompt steps to file petition seeking leave to appeal immediately after 16th October, 2015. The ground of mother's ailment is not sufficient to explain the delay as even thereafter prompt action was not taken. Brother of petitioner has his own family, therefore, it cannot be said that petitioner remained busy in taking her care, inasmuch as no medical documents have been filed. I am of the view that

delay has remained unexplained by sufficient and cogent reasons. Accordingly, delay is not condoned. Application is dismissed. Consequently, petition is also dismissed being time barred.

A.K. PATHAK, J.

JULY 19, 2016
rb