

CRM-21714-2017 in/and
CRM-A-1437-MA-2017 (O&M)

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HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-21714-2017 in/and
CRM-A-1437-MA-2017 (O&M)
Date of Decision: September 26, 2017

State of Punjab

.....Appellant

Versus

Balwinder Singh @ Titu and another

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mrs.Manjri Nehru Kaul, Addl.AG, Punjab
for the applicant-appellant.

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SURYA KANT, J.

State of Punjab has filed this application under Section 378(3) Cr.P.C. seeking permission of this Court to file the accompanying criminal appeal. The appeal has been preferred against the judgment and order dated 16.07.2015 whereby learned Additional Sessions Judge, Patiala, held respondent No.1 guilty of committing offences under Sections 325, 323, 341 and 506 IPC and sentenced him to undergo maximum rigorous imprisonment for three years with fine of Rs.5,000/-. FIR No.311 dated 17.11.2013, culminating into the above mentioned appeal, was registered under Section 304, 452, 341, 325, 323, 506 and 34 IPC at Police Station Patran, District Patiala.

[2] In nutshell it is urged in the State's appeal that it was a case where respondent No.1 ought to have been held guilty under Section 304 IPC instead of 325 IPC only.

[3] The application seeking permission to file appeal is accompanied with another application under Section 5 of the Limitation Act seeking condonation of delay of 588 days in filing the appeal. A plain reading of the application shows that on receipt of certified copy of the judgment of the trial Court on 20.07.2015, the Director, Prosecution and Litigation sent the proposal for legal opinion to the Office of Advocate General, Punjab as to whether it was a fit case for filing appeal? The file was marked to the Law Officer in the Office of Advocate General who gave his opinion on 16.09.2015 that it was not a fit case to file the appeal.

[4] The file thereafter suddenly re-appeared on 30.05.2016 and was marked to Additional Advocate General Punjab who tendered in his opinion that it was a fit case for filing the appeal to challenge the acquittal of co-accused Surjit Kaur (respondent No.2) and for proper enhancement of sentence of respondent No.1. The file again went under the carpet after the said opinion dated 04.07.2016 as it was endorsed only on 14.03.2017. The appeal was eventually filed on 25.05.2017.

[5] As the facts would speak for themselves, there has been consistent reluctance on the part of one or the other Government Office to file the appeal. After the first opinion that it was not a fit case to file the appeal, there is no explanation whatsoever as to where remained the file between 16.09.2015 to 30.05.2016 and again from 04.07.2016 till

14.03.2017. There is long delay of 588 days and in the absence of any satisfactory explanation, we are not inclined to condone the same.

[6] The application is, consequently, dismissed. Resultantly, the accompanying application seeking permission to grant leave to appeal also must fail.

[7] Ordered accordingly.

**(SURYA KANT)
JUDGE**

September 26, 2017
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**(SUDHIR MITTAL)
JUDGE**

1. Whether speaking/reasoned ?	Yes/No
2. Whether reportable ?	Yes/No