

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-A-1664-MA of 2014 (O&M)
DATE OF DECISION :- November 17, 2017**

Murti Devi

...Applicant

Versus

Sukhbir and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- None for the applicant.

Mr. Satvir Singh, Advocate for respondents no. 1, 3, 5 and 6.

Mr. Sandeep Antehri, Advocate
for Mr. Ravinder Malik, Advocate for respondent no.2.

Learned counsel for the applicant has been informed but has not put in appearance. There was no representation on behalf of the applicant on last date of hearing.

Feeling aggrieved by the judgment dated 28.4.2014 passed by Additional Chief Judicial Magistrate, Ambala vide which he had acquitted accused Sukhbir etc. in a complaint filed by applicant Murti Devi against them, the complainant has approached this Court by filing application under Section 378(4) Cr.P.C. for grant of leave to file appeal. Notice was given to the respondents who have put in appearance through counsel. The appeal has not been filed within time and has been brought belatedly by 106 days.

The application under Section 5 of the Limitation Act for condonation of delay has been filed therein mentioning that complainant-applicant is an illiterate lady and was not aware of the intricacy of the law of limitation and not advised by the counsel from the lower Court resulting in filing of delay.

I do not find it to be a cogent and convincing reason to condone the delay since ignorance of law is no excuse. Section 3 of the Limitation Act, 1963 provides bar of limitation dilating that every suit instituted, appeal preferred and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence. Although under Section 5 of the Limitation Act prescribed period can be extended in certain cases if appellant satisfies the Court that he/she has sufficient cause for not preferring the appeal and making the application during such period. However, in this case sufficient cause for not doing so does not appear to be there. Therefore, on grounds of limitation alone, the application under Section 378(4) Cr.P.C. is liable to be dismissed. However, on merits also after going through the impugned judgment, I find that the trial Magistrate has passed the judgment on various factors like complainant being not eyewitness of the incident rather she being not residing in the village after death of her husband, details of stolen articles not furnished, no medical examination of complainant being there, complainant losing civil litigation, discrepancies between the statements of witnesses causing doubt on the account of prosecution story and delay of more than three months in filing the complaint. In that way, complainant having failed to prove charge against the accused beyond shadow of reasonable doubt. The judgment passed is well reasoned one based on proper appreciation of law. I do not

find any illegality and infirmity therein. No ground is made out for grant of leave to appeal to the applicant-appellant.

The application stands dismissed accordingly.

(H.S. MADAAN)
JUDGE

November 17, 2017
p.singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No