

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

CRR No.3517 of 2015(O&M)

Date of decision: 29.3.2017

Santosh Vashisht and another

....Petitioners

VERSUS

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Virat Amarnath, Advocate for the petitioners.

Ms. Dimple Jain, AAG, Haryana.

Mr. S.K. Verma, Advocate for respondent No.2.

REKHA MITTAL, J.

CRM No.30760 of 2015

Prayer in this application is for condoning delay of 195 days in filing the revision petition.

Counsel for the applicant-petitioners has submitted that Siri Dev – respondent No.2 lodged FIR No.62 dated 03.02.2014 under Sections 498-A, 304-B read with Section 34 of the Indian Penal Code, 1860 (in short 'IPC') at Police Station City, Rohtak. On completion of investigation, challan was presented against Priyawart – husband and Dharam Bala @ Dharmo, mother-in-law of deceased Pooja, married with Priyawart on 17.06.2012. Complainant Siri Dev was examined as a witness and thereafter application under Section 319 Cr.P.C. was filed for summoning the petitioners (Jethani and Jeth) of Pooja as additional accused and the same was allowed by the trial Court vide order dated 05.12.2014 challenged by way of revision. Counsel for the applicants has submitted that delay in filing the petition is not intentional but due to

reasons culled out in para 2 of the application and the same constitute a sufficient ground to condone the delay. It is further argued that the petitioners have a very good case on merits as they are the Jethani and Jeth of the deceased and had been residing in a separate house, thus had nothing to do with marital affairs of Pooja and Priyawart.

Counsel for respondent No.2 has hotly contested prayer of the petitioners with the submissions that allegations raised in para 2 cannot constitute a justifiable reason to condone delay of more than 6 months particularly in the circumstances that the petitioners filed the first application for grant of bail in anticipation of arrest in January 2015 and was dismissed by this Court vide order dated 27.01.2015 wherein it has been held that there are specific allegations against the petitioners and the deceased specifically stated that both the petitioners caught hold of her and the husband put some poisonous substance in her mouth. The death had taken place within 7 years of marriage; there was persistent demand of dowry and it was unnatural death.

I have heard counsel for the parties and perused the records.

Before adverting to the submissions made by counsel for the parties, it is appropriate to advert to the averments raised in para 2 of the application and a relevant extract therefrom, germane to the present controversy, is reproduced for ready reference:-

“2. That on 15.08.2015 petitioner No.1 had approached his counsel Mr. Abhishek Vig, Advocate, for filing the regular bail application of petitioner No.2 at that time petitioner no.1 also gave the copy of impugned order dated 05.12.2014 to his counsel, whereupon the counsel advised the petitioner no.1 to challenge the above impugned order by filing criminal revision petition against the same. The petitioner no.1 arranged for the documents and other material required for filing the present revision petition and after obtaining the same, petitioner no.1

handed over the documents to his counsel on 13.09.2015. Thereafter, the present revision petition was drafted without any further delay.”

Santosh Vashisht has filed an affidavit in support of these allegations.

Counsel for the petitioners has not disputed that immediately after passing of the order dated 05.12.2014, the petitioners through an advocate of this Court filed CRM No.M-591 of 2015, decided on 27.01.2015. If the petitioners did not bother to seek legal advice to challenge the order impugned, any advice rendered by a counsel at a later point of time cannot constitute a sufficient ground for condoning delay of more than six months. In this view of the matter, I do not find any merit in contentions of the petitioners that delay in filing the petition is sufficiently explained and liable to be condoned.

So far as the contention that the petitioners have a good case on merit, merits of the case are not amenable to examination without deciding the application for condonation of delay. In this context, reference can be made to judgment of Hon’ble the Supreme Court of India **Commissioner Nagar Parishad, Bhilwara Vs. Labour Court, Bhilwara and another, 2009 (1) RCR (Civil) 893.**

In view of what has been discussed hereinabove, application for condonation of delay of 195 days is ordered to be dismissed. As a natural corollary, revision petition is dismissed being barred by limitation.

No orders as to costs.

MARCH 29, 2017
‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no