

\$~3

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CRL.M.C. 1048/2016 & Crl.M.A.No. 4496/2016

PAWAN KUMAR

..... Petitioner

Through

Mr.Sunil Dalal and Mr.Manoj
Ahlawat, Advocates

versus

STATE

..... Respondent

Through

Mr.G.M.Farooqui, APP for State with
ASI Tej Ram, P.S. Najafgarh

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

%

26.07.2017

As per the prosecution, petitioner, while driving his vehicle in a rash and negligent manner caused accident wherein Sh.Mukesh died and two other persons, namely, Raj Kumar and Arun sustained injuries, which led to the registration of FIR No. 155/2008 under Sections 279/337/304-A IPC at Police Station Najafgarh. SI Hari Singh conducted the investigation but did not file the charge sheet for about four years. Charge sheet was filed on 12th August, 2015.

Petitioner contended before the trial court that there was a delay of about four years in filing the charge sheet. It was contended that the period of limitation prescribed under Section 468 Cr.PC, 1973 in respect of offence under Section 304-A IPC is three years, therefore,

cognizance cannot be taken.

Trial court has noted that Sh. Hari Singh, Investigating Officer of the case, had filed an application for condoning the delay, wherein he stated that he was transferred to Police Station Chhawla from Police Station, Najafgarh w.e.f. 1st October, 2008 and had to join the new office immediately, therefore, he forgot to file the charge sheet in court. Later, when he found the charge sheet in his bag he filed the same.

Learned CMM held that though Investigating Officer was negligent but accused cannot be given benefit of the lapses, negligence or inaction of the Investigating Officer. DCP (South West) was also requested to initiate appropriate departmental action against SI Hari Singh for his lapses and dereliction of duties.

Petitioner preferred a Revision Petition before the learned Additional Sessions Judge against the order dated 5th October, 2015 of the learned CMM which has been dismissed by the judgment dated 17th November, 2015. Learned Additional Sessions Judge has held that the delay on the part of Investigating Officer in submitting the charge sheet appears to be on account of either his negligence or

callousness towards official duties or deliberate inaction due to some extraneous reasons.

Be that as it may, petitioner (accused), cannot be given the benefit of the lapses, negligence or inaction of the Investigating Officer. Revisional Court concurred with the CMM's view. Learned ASJ observed that an accident had taken place in which a citizen had lost his life and two other had sustained injuries. Petitioner was stated to be the offender right from the initial stage of investigation as his name was mentioned by the eye-witnesses to the accident in their statements under Section 161 Cr.PC. It was further observed that there is every possibility that Investigating Officer deliberately delayed the filing of the charge sheet for such a long period at the instance of the petitioner for some extraneous reasons.

Section 473 of Cr.PC empowers a court to take cognizance of an offence even after the expiry of the period of limitation if the delay has been properly explained or the Court feels it necessary to condone the delay and to take cognizance of the offence in the interest of justice. Learned Additional Sessions Judge has held that delay had to be condoned, in the interest of justice, since one person had died and

two had sustained injuries.

For the foregoing reasons, I do not find any justification to interfere with the concurrent views of the courts below, in exercise of the inherent powers the High Court under Section 482 Cr.PC, more so when the view taken by the courts below is not perverse and has been taken in the interest of justice.

Accordingly, petition is dismissed.

Miscellaneous application is disposed of as infructuous.

JULY 26, 2017/mw

A.K. PATHAK, J