

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.114

C.R. No.4199 of 2018

Date of decision: 05.07.2018

Paramjit Singh

....Petitioner

versus

M/s Jagan Nath Jai Pal Commission Agents

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. R.S. Rangpuri, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral)

The respondent instituted a recovery suit against the petitioner which was allowed by the trial court through judgment and decree dated 28.01.2014. Such judgment and decree was appealed against by the petitioner but since there was a delay of 383 days in filing of the same, an application under Section 5 of the Limitation Act, 1963 was filed alongwith the appeal seeking condonation of delay. The Appellate Court, after framing an issue and considering the evidence which came on record dismissed the appeal being barred by limitation and it is this order which is the subject matter of challenge in the present proceedings.

After hearing learned counsel for the petitioner, I am of the view that the present petition has no merit.

The petitioner had sought condonation of delay of 383 days in filing of his appeal on the ground that he was suffering from jaundice and liver infection and that he remained under treatment for a long time. It

was the petitioner's case that he was unable to walk as he had been medically recommended bed rest. He recovered in the month of February 2015 and thereafter, on 21.03.2015, he filed the appeal with an application seeking condonation of delay. In support of his averments, the petitioner produced Dr. Anand Parkash as AW-1, who stated that on 12.01.2014, the petitioner was examined by him in his hospital and was found to be suffering from jaundice and liver infection. He further stated that the petitioner remained under his treatment for one year; was unable to walk and was advised bed rest.

The statement of the doctor is unreliable as on one hand he stated that the petitioner was unable to walk and on the other hand he admitted that the petitioner used to regularly come to his hospital/clinic for treatment. Further, it is not disputed that the petitioner was never subjected to any test from any Laboratory. That being so, it is rather strange as to how and on what basis the doctor diagnosed the petitioner to be a patient suffering from jaundice/liver infection as also on what basis did he prescribe medicines to him.

The petitioner has not produced any document on record to show that he was suffering from jaundice except the certificate issued by the doctor, which is found to be of no worth.

There is yet another aspect of the matter. The petitioner had been convicted under Section 138 of the Negotiable Instruments Act, 1881. Against his conviction, on 13.09.2012, the petitioner had instituted an appeal before the Additional Sessions Judge, Sri Muktsar Sahib. Such appeal was dismissed on 05.03.2015. The petitioner admitted before the Appellate Court that in the aforesaid appeal he had been appearing before

the Court on each and every date of hearing in those proceedings. Thus, there was no reason for him not to take steps to file the appeal in the present case in time. This further falsifies the afore-referred certificate given by the doctor that due to his illness, the petitioner was unable to walk.

Due to the above pleas which have found to be false both by the Appellate Court also this Court, the petitioner deserves no relief.

Dismissed.

(DEEPAK SIBAL)
JUDGE

July 05, 2018
Jyoti 1

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No