

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

CRA-S-794-SB of 2015 (O&M)

DATE OF DECISION :- February 09, 2018

Som Bahadur

Versus

...Appellant

Union Territory, Chandigarh

...Respondent

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

Present:- Ms. Sumanpreet Aulakh, Legal Aid Counsel for the appellant.

Mr. Sukant Gupta, Additional PP, U.T., Chandigarh.

Appellant Som Bahadur along with his co-accused Quim Khan, Gaurav Bahadur alias Gora, Abrar Khan and Veer Bahadur having been booked in F.I.R. No. 220 dated 10.12.2009 for offence under Section 395 of the Indian Penal Code Police Station Industrial Area, Chandigarh was tried by Additional Sessions Judge, Chandigarh, who vide judgment dated 01.09.2012 convicted the accused and vide order dated 3.9.2012 sentenced them to undergo rigorous imprisonment for seven years and to pay a fine of Rs.5000/- each and in default of payment of fine to further undergo imprisonment for two months each under Section 395 of the Indian Penal Code.

Feeling dissatisfied with such judgment of his conviction and sentence, appellant Som Bahadur has filed the present appeal in this Court. The appeal has been filed quite belatedly. Though an application under

Section 5 of the Limitation Act has been filed for condonation of delay contending therein that delay of 838 days in filing the appeal took place for the reason that appellant is a poor person and is behind bars since pronouncement of the impugned judgment as such he was not able to engage his counsel for filing the appeal. This application is being opposed by the State counsel.

After hearing the counsel for the appellant, I find that no cogent or convincing reason for condonation of delay is there. Even if the reasoning given in the application is accepted, the appellant could have filed appeal through the Superintendent Jail concerned or by availing services of Legal Aid Counsel. So much delay in filing cannot be justified by any stretch of imagination. Therefore, appellant having failed to cross the hurdle of imagination, the appeal is bound to be dismissed for that reason. On another account also, the appeal has become infructuous since as per custody certificate placed on file by the State counsel, the appellant has already undergone the period of sentence of imprisonment of seven years awarded to him. Therefore, the appeal stands dismissed accordingly.

(H.S. MADAAN)
JUDGE

February 09, 2018
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No