

223.

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

CRM-A-1557-MA-2014 (O&M)

Date of decision:10.08.2018.

DILBAG SINGH

... Appellant

Versus

STATE OF PUNJAB & ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Amaninder Preet, Advocate,
for the applicant-appellant as Amicus Curiae.

HARI PAL VERMA, J. (Oral)

Through the present appeal, appellant-complainant has challenged the judgment dated 14.06.2010 passed by learned Chief Judicial Magistrate, Hoshiarpur, whereby the accused have been acquitted. The revision filed against the said judgment was also dismissed vide judgment dated 18.04.2013 passed by learned Additional Sessions Judge, Hoshiarpur, being not maintainable.

The present appeal has been accompanied with an application (CRM-30068-2014) seeking condonation of delay of 1470 days in filing the present appeal. In the application, it has been pleaded that against the judgment of acquittal dated 14.06.2010 passed by learned Chief Judicial Magistrate, Hoshiarpur, the applicant has wrongly filed a revision petition in the Court of Sessions Judge, Hoshiarpur, whereas such revision was not maintainable and the available remedy to the applicant was to file an application seeking leave to appeal under Section 378(4) Cr.P.C.

Against the judgment dated 14.06.2010, the applicant had filed revision petition before the Additional Sessions Judge, Hoshiarpur. The said revision petition was decided on 18.04.2013. It is thereafter, the leave to appeal was filed before this Court on 03.08.2013 which was returned back with certain objections on 03.09.2013, whereas the present application has been filed on 10.09.2014, still after more than a year.

The delay is inordinate and not properly explained in spirit of Section 5 of Limitation Act.

The allegations against the accused are that accused Nos.1 to 3 came out from Tata Sumo and kidnapped Bhupinder Singh, who is the son of the applicant-complainant and at that time, Khushia Singh who is father of applicant-complainant and Sukhwant Singh, younger brother of the applicant, were present outside the house. But interestingly, these witnesses, namely, Khushia Singh and Sukhwant Singh, who are the eyewitnesses to the incident, were never examined. Therefore, no case for interference is made out even on merit as well.

Accordingly, the application is dismissed on the ground of limitation as well as on merits.

(HARI PAL VERMA)
JUDGE

10.08.2018
sanjeev

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