

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

**CRM-32468-2014 in/and  
CRM-A-1643-MA-2014  
Date of Decision: 19.09.2018**

**Baljit Kaur @ Baljeet Kaur**

...Appellant(s)

**Versus**

**Rohit Kumar and others**

...Respondent(s)

**CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Mr. Ashish Gupta, Advocate  
for the applicant-appellant.

Mr. Vivek Sharma Vashist, Advocate  
for the respondents.

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**ANITA CHAUDHRY, J.**

This appeal has been filed along with an application seeking condonation of delay of 583 days.

It is necessary to first notice few facts. The appellant was married to Rohit in March 2008. A complaint was filed in October 2008 alleging that on the very first day of the marriage taunts were given by her father-in-law and mother-in-law for bringing less dowry and the husband came in drunken condition and demanded her jewellery and when she refused to hand over the ornaments then she was beaten up and he went out of the room. She narrated the incident to her in-laws. On the third day they again started quarreling with her and

threatened that the son would be remarried. The allegations further were that gold articles were given. The complainant also mentioned that after 5 – 6 days of her marriage she went to Ludhiana along with her husband to meet his relatives where she was beaten up and they were thrown out by the relatives at night and they returned at night where her mother-in-law had demanded Rs.50,000/-, fridge, motorcycle and washing machine and she was again beaten up and was confined in a room for three days and thereafter a Panchayat was held and demands were again raised. On 02.05.2008 i.e. less than two months of the wedding, the complainant heard her husband and his parents talking and planning to set her on fire. The complainant informed her parents. The allegations were that the accused came with a kerosene can after one and a half hour and they tried to kill her and she was dragged by her hair, slapped and kicked and she raised noise and her father, brother and 2 – 3 persons came to her rescue. It was further alleged that father of the complainant informed the Sarpanch of the village and many persons gathered there and tried to make them understand. Having failed in their efforts, the complainant's father and brother took her home. The allegations further are that on the next day, the complainant's husband threatened to kill her and the threat was given on the phone and the complainant gave a complaint in the police station against all the accused. The complainant gave another complaint in the Women Cell on 19.05.2008 and they were assured that action would be taken but no action was taken.

The complainant then filed a complaint and examined herself and her father and closed her evidence. The accused were summoned on 29.01.2009.

Pre-charge evidence was recorded and the complainant stepped into the witness box along with her father and Raj Kumar. The accused were charge sheeted. Based on the evidence all the witnesses were recalled.

After the closure of the evidence, the accused led his defence and produced the copy of the petition filed for divorce and the judgment passed therein. The trial Court after hearing both the sides found no merit in the complaint and acquitted the accused vide order dated 04.01.2013.

An appeal was preferred by the complainant on 04.02.2013, which was withdrawn by the complainant.

Since the order read that it was a case of simple withdrawal, the First Appellate Court's file was called for. Counsel for the appellant had urged that the appeal was withdrawn as it had been filed in a wrong Court.

This appeal was filed in October 2014 with an application for condonation of delay of 583 days. It was averred that the delay had occurred as an appeal had been filed before the Sessions Court and he continued to prosecute the appeal but later on in view of the judgment of Hon'ble Supreme Court rendered in M/s. Tata Steels Ltd. Vs. M/s. Atma Tube Products Ltd. CRM-790-MA-2010, D.O.D. 18.03.2013, as

the appeal was not maintainable, therefore, it was withdrawn and after withdrawing the appeal they arranged for the necessary documents and preferred this appeal and therefore, the delay of 583 days occurred.

The submission on behalf of the appellant is that the delay occurred since they were pursuing the matter before a wrong Court and thereafter they had withdrawn the appeal on 09.07.2014 and the appeal was filed in the High Court in October 2014 and some time was taken in collecting the documents.

The submission on the other hand is that there was no merit in the appeal or the application as the complainant had stayed in their house for a few days and the allegations were that she was beaten up and there is no MLR and no witness has been examined to show that there was any Panchayat and the complaint was given to the police within two months of the marriage and the police did not take any action and thereafter the complaint was filed in October 2008. It was urged that the copy of the judgment appended along with the appeal will show that it was applied on 30.08.2014 and the copy was ready on 06.09.2014. The counsel further submits that before the First Appellate Court they had filed the copy of the judgment which had been applied on 05.01.2013 and it was received on 31.01.2013 and they could have also asked for return of the judgment and the reasons given for condonation of delay are not sufficient and each day's delay had to be explained. It was urged that only copy of the judgment was appended along with the appeal and it was applied late and even on receipt of the same, the appeal was filed with further delay.

In order to condone the delay, a party coming to the Court late has to explain the delay. The judgment rendered in Tata Steel's case (supra) was in March 2013. The appeal had been filed in February 2013 before the First Appellate Court but it was withdrawn in July 2014. Even if that period of one year and few months is ignored, the appeal filed here is again delayed and no sufficient cause has been given and the delay is the direct result of negligence and default in action. The applicant has been negligent in implementing its rights and remedies and it would be equally unfair to deprive the other party of a valuable right that has accrued to it. Even otherwise on merits there was not much evidence and the trial Court had examined the allegations. It did not find any merit. The evidence was not supported from any independent source that the complainant had been beaten up or thrown out of the house. The application seeking condonation of delay is dismissed. Consequently, the appeal also fails.

**(ANITA CHAUDHRY)**  
**JUDGE**

19.09.2018  
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No