IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRR-613-2015 (O&M)
Date of Decision: 29.10.2018

State of Haryana ..Petitioner

versus

Nalin Goel and another ..Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Vikramjit Singh, Additional Advocate General, Haryana for the petitioner.

Mr. Subhash Godara, Advocate,
for Mr. S.S.Dinarpur, Advocate,
for the respondent.

RAMENDRA JAIN, J. (ORAL)

CRM No.20296 of 2017

This is an application for condonation of delay of 143 days in filing the instant revision, duly supported by the affdavit.

It is pertinent to mention that the contents of CRM No.5934 of 2015 for condonation of delay of 143 days filed at the time of filing of this revision were vague.. Therefore, a co-ordinate Bench of this court, vide order dated 17.4.2017, directed the State to file fresh application with better particulars, indicating therein the circumstances culminating into filing the delay application and if there is any dereliction of duty by any State official.

Pursuant thereto, a fresh Criminal Misc. Application No.20296 of 2017 for condonation of delay of 143 days was filed supported by an affidavit of Shri Raj Singh, HPS, Deputy Superintendent of Police, HQ, Kurukshetra pleading that opinion of the District Attorney was sought as to whether any appeal or revision has to be filed. As a routine practice, in case, no such opinion is received, it is considered that the case is not fit for filing appeal or revision. In the instant case, District Attorney, Kurukshetra, formed an opinion that it was not a fit case to file revision. Therefore, he did not send any comments to the District Magistrate or the Superintendent of Police, Kurukshetra. However, the Superintendent of Police, Kurukshetra, on his own, formed an opinion to file revision against the impugned judgments and sent his proposal to District Magistrate, Kurukshetra, who, agreeing with the proposal, sent the case to Advocate General, Haryana for filing criminal revision. Therefore, delay of 143 days in filing the instant revision occurred on account of procedural delay.

Having given thoughtful consideration to the submissions made by both the sides, this court is not inclined to condone the delay for the reasons that since last 2-3 decades, the State machinery thinks that it has fundamental right to file appeal or revision delayed and to get the delay condoned, whatsoever may be the reason. It is well settled proposition of law that each day's delay has to be explained in a mathematical manner. Much water has already flown. Now the time has come to deprecate and reject such type of frivolous pleas taken in routine to abuse the process of law inasmuch as every State Government is the best litigant in the country. Since no cogent reason or plausible explanation has been furnished by the applicant-State for condonation of delay of 143 days in filing the revision, therefore, the application is dismissed.

However, main revision is also dealt with on merits.

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Briefly, respondents were booked and charge-sheeted under sections 186, 332, 353 and 382 IPC vide FIR No.131 dated 9.2.1998 registered at Police Station Thanesar.

During trial, they were discharged on 04.08.2000, by the trial Court on account of non-compliance of the provision of section 195(1), Code of Criminal Procedure for prosecuting the respondents under sections 186, 332 and 353 IPC.

However, the police presented another final report under section 173 (2) of the Code of Criminal Procedure, again without complying with the provisions of section 195, Code of Criminal Procedure. The trial court after holding trial, vide judgment dated 17.5.2011, acquitted the respondents.

Being aggrieved, the State preferred appeal, but remained unsuccessful, as its appeal too was dismissed vide judgment dated 6.6.2014 of the first appellate court.

Learned State counsel contends that both the courts below have failed to appreciate that PW3 Shri S.S.Gautam, Assistant Commissioner, Income Tax, Investigation Circle-II, Ambala, and PW5 Babu Ram Madaan, Deputy Commissioner, Income Tax, Bathinda have fully proved the prosecution case. The impugned judgments of both the courts below, acquitting the respondents are based on conjectures and surmises and liable to be set aside.

On the other hand, learned counsel for the respondents, refuting the submissions of learned State counsel, pleaded legality and validity of both the judgments of courts below.

Having given anxious consideration to the rival submissions, this court finds that the instant petition is devoid of any merit for the reasons to follow:-

Respondents were booked and tried for the allegations that on 9.2.1998, the respondents abused and manhandled the Income Tax Party, headed by PW3 Shri S.S.Gautam and snatched the record of Paras Rice Mill, while they were checking and verifying the stock of Saraswati Rice Mill.

However, during trial, PW5 Gobind Ram Ghaira, Income tax Officer, Ambala, demolished the case of the prosecution by testifying that no such document of any kind was ever snatched from the Income tax Party headed by PW3 Shri S.S.Gautam, Commissioner Income Tax. This witness was declared hostile. Shri S.S.Gautam, Assistant Commissioner Income Tax, Ambala also made material improvements in his statement, while appearing in the witness box as PW3. He did not identify the respondents in court. Therefore, the identity of the respondents as assailants could not be established by the prosecution. In such circumstances,respondents have rightly been acquitted by the trial court.

The case set up by the prosecution is that PW3 Shri S.S.Gautam, Assistant Commissioner, Income Tax, Investigation Circle-I, Ambala, had conducted raid at the premises of the private respondents on the direction of the Income Tax Appellate Tribunal. However, no such direction and order authorising Shri S.S.Gautam, Assistant Commissioner of Income Tax, was produced on the file. Therefore, it is evident on record that PW3 S.S.Gautam, Assistant Commissioner of Income tax, conducted raid at the premises of the respondents for some extraneous reasons illegally without any authority, inasmuch as PW6 Babu Ram Madaan, Deputy Commissioner, Income tax, Bathinda, has also admitted in his cross-examination that no such approval or order was sought for and granted by the Income Tax Appellate Authority to PW3 Shri S.S.Gautam to visit and raid premises of the private respondents.

PW5 Shri Gobind Ram Ghaira Income Tax Officer, did not support the prosecution case inasmuch as he did not depose that any of the accused-respondent had ever assaulted or abused or extended any threat to the Income Tax Party or snatched the record from it. He testified that the driver of the private respondents had snatched the files from him. Therefore, it is evident that the private respondents did not commit any such default for which they were charged with. That apart, there are major contradictions in the statements of the prosecution witnesses.

No medical record in support of the prosecution story that the private respondents had assaulted the Income Tax Party was produced on the record. Therefore, from any angle, the prosecution has miserably failed to prove its case to the hilt.

I have gone through the judgments of both the courts below and find no illegality or perversity in the same. Rather, they are well reasoned based on appreciation of evidence and therefore do not call for interference.

In view of the discussion made above, revision, being without any merit, is dismissed.

October 29,2018 (RAMENDRA JAIN)
Jyoti-*IV* JUDGE

1.	Whether speaking/reasoned	Yes/No
2.	Whether Reportable	Yes/No