

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 4055 of 2017 (O&M)

Date of decision : 3.10.2018

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Dr. Sanjiv Mahajan and others

.....Petitioners

vs.

Dr. Reena Mahajan

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Yogesh Mahajan, Advocate for the petitioners.

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H. S. Madaan, J.

Accused Dr. Sanjiv Mahajan and others were tried by Additional Sessions Judge, Palwal, in case care registered vide FIR No. 251/2012, dated 6.7.2012 for offences under Sections 498-A, 406, 323, 506 IPC, Police Station Camp Palwal, District Palwal, who vide judgment dated 14.4.2017 acquitted them of the charges framed against such accused. Feeling aggrieved by the said judgment, complainant Dr. Reena Mahajan, had filed an appeal to the Court of Sessions, which was assigned to Additional Sessions Judge, Palwal, who vide order dated 3.6.2017, directed the respondents to furnish bail bonds to procure their presence and respondents requested them to allow them to furnish personal bonds as they had deposited like

amount of Rs.30,000/- each in cash before the trial Court, which was lying deposited. The personal bonds were furnished, accepted and attested.

Now the accused have preferred the present revision petition challenging the legality of the said order. The revision petition has been filed belatedly by 61 days. An application under Section 5 of the Limitation Act for condonation of delay in filing the revision petition has been moved, for the reason that on account of frequent dates of hearing, petitioner No.1 could not get the present revision petition filed in time, whereas petitioner No.2, is a senior citizen and suffering from old aged related problems, therefore, delay was not intentional or willful.

I have heard learned counsel for the petitioners, besides going through the record.

I do not find the reasoning to be plausible and satisfactory and therefore I do not see any ground to condone the delay in filing the revision petition.

Section 3 of the Limitation Act, 1963 deals with Bar of Limitation providing that every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence.

Therefore, the revision petition is liable to be dismissed being time barred. However, on merits also the petition does not survive. Section 381 Cr.P.C. deals with the procedure to hear an appeal by the Court of Sessions. Section 385 Cr.P.C., deals with the procedure for hearing appeal not dismissed summarily. In the instant

case, the trial Court had asked the accused to furnish bonds to ensure their presence in the Court. Personal bonds have since been furnished, whereas in place of sureties cash amount already deposited was offered, which has been accepted. Not even a murmur of protest was raised that furnishing of bonds was not required and that accused were not ready to furnish such bonds. Section 437 A Cr.P.C, provides that before conclusion of the trial and before disposal of the appeal, the Court trying the offence or the Appellate Court, as the case may be, shall require the accused to execute bail bonds with sureties, to appear before the higher Court as and when such Court issues notice in respect of any appeal or petition filed against the judgment of the respective Court and such bail bonds shall be in force for six months. As per sub-section 2 if such accused fails to appear, the bond stand forfeited and the procedure under section 446 shall apply.

Thus no prejudice has been caused to the accused by the trial Court asking them to furnish the bonds. As a matter of fact the needful has already been done and revision petition in that regard is without any merit and is bound to be dismissed.

The petition stands dismissed accordingly.

3.10.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned

Yes/ No

Whether reportable

Yes/ No

