

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.C.C. No. 341 of 2018**

Smt. Nasrin Akhtar Khan, W/o Mohammad Firoz Khan, Aged About 38 Years, R/o Rajendra Nagar (Behind house of Govindram Miri), Bilaspur, Tahsil & District Bilaspur, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through The District Collector, Bilaspur, Chhattisgarh.

---- Non-Applicant

For Applicant	:	Smt. Hamida Siddiqui Advocate.
For State/Non-Applicant	:	Shri Vimlesh Bajpai, G. A.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****28.02.2019**

1. Heard on I. A. No.01/2018, an application for condonation of delay of 3013 days in filing this MCC for restoration of F.A.(M) No.09/2009, which was dismissed in default vide order dated 16.12.2009.

2. Learned counsel for the applicant submits that the applicant Smt. Nasrin Akhtar Khan was regularly in touch with her counsel and used to ask the progress of her case, who always used to inform that it will be listed at any time either in the next week or in the next month. It is submitted further that after some time, her husband went to the Court and obtained necessary information regarding listing of the case, then only she came to know that the matter has already been dismissed in

the year 2009. It is submitted further that for obtaining the certified copy of the same, an application was moved on 23.03.2018 and in pursuance thereof, it was delivered on 26.03.2018 and immediately thereafter the instant MCC for restoration of the said appeal has been filed on 20.04.2018.

3. On the other hand, Shri Vimlesh Bajpai, learned counsel for the State while opposing the said application, submits that there is huge delay of 3013 days in filing this MCC and the delay has not been explained satisfactorily. The application for condonation of delay in filing the MCC for restoration of appeal, is therefore, liable to be dismissed.

4. I have heard learned counsel for the parties and perused the entire papers carefully.

5. From perusal of the averments made in the application for condonation of delay, it appears that the applicant's husband went to the Court for taking necessary information regarding her case where he came to know that it was dismissed in the year 2009. However, it has not been mentioned in the application that when her husband visited the Court and what was the date when he came to know about the said fact. Merely by saying as such would not be sufficient, particularly when it suffers from a huge delay of 3013 days. It is, therefore, incumbent upon the applicant to explain such a long delay by way of cogent and reliable evidence. However, she failed completely to place the same on record. Besides, it appears that the applicant has deliberately suppressed the material facts and has approached the Court not with clean hands. Moreover, the certified copy of the said order was delivered to the applicant on 26.03.2018, yet the instant MCC has been filed on 20.04.2018 even without explaining any reasons thereof.

6. Considering the aforesaid facts and circumstances of the case and considering further that the delay has not been explained satisfactorily by cogent and reliable evidence, I am not inclined to condone the delay of 3013 days in filing this petition. The application for condonation of delay is, accordingly rejected and consequently the instant Petition for restoration of FAM No.9/2009 is hereby dismissed. No order as to costs.

Sd/-
(Sanjay Agrawal)
Judge