

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-39779-2018 IN/AND
CRM-A-2511-MA-2018
DECIDED ON: 12.03.2019

RANI KAUR

...APPLICANT..

VERSUS

BABLI @ GHUDA AND ORS.

...RESPONDENTS..

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Ms. Jaspreet Kaur, Advocate for
Mr. Jagtar Singh Sidhu, Advocate for the applicant.

RAMENDRA JAIN, J. (ORAL)

Along with this application under Section 378 (4) Cr.P.C. for grant of special leave to file accompanying appeal against the judgment dated 20.01.2015 of the trial court, acquitting the respondents, another application under Section 5 of the Limitation Act for condonation of inordinate delay of 1300 days has been filed.

Learned counsel inter alia contends that due to bona fide mistake, applicant preferred appeal against judgment dated 20.01.2015 before the Sessions Court, Mansa, which was dismissed on 18.04.2018 being not maintainable, in view of the provisions of Section 378 (4) Cr.P.C. Thereafter, applicant immediately, approached this Court under Section 378(4) Cr.P.C. along with an application for condonation of delay. Therefore, the delay of 1300 days in filing the instant application is neither deliberate nor intentional, rather is on account of ill-advice.

Having given thoughtful consideration to the submissions made by learned counsel for the applicant, this Court is not inclined to condone an inordinate delay of 1300 days for the reasons to follow:-

Ld. Additional Session Judge, Mansa, dismissed the appeal of the applicant on 18.04.2018 and copy of the same was prepared on 25.04.2018, but the applicant collected the same on 02.05.2018 and, thereafter, kept silent for more than five and half months and filed the instant application on 11.10.2018. The explanation furnished by applicant that file was put in some wrong brief by the clerk of the advocate is a routine plea, which is taken in almost every case, since last 4/5 decades, in such like application for seeking condonation of delay. Much water has already flown. Now, the time has come to turn down such false pleas.

Ignorance of law is no excuse.

Choosing of wrong forum by the applicant of filing appeal before Sessions Court, instead of coming to this Court under Section 378 (4) Cr.P.C. on account of ill-advice is again seems to be a false plea, inasmuch as, no Advocate would give such an illegal advice, in view of the fact that Section 378 (4) Cr.P.C. was introduced in 2005 i.e. much earlier to the filing of appeal by the applicant before the Sessions Court. Moreover, the applicant has not annexed any affidavit of the alleged Advocate, who gave illegal advice of filing appeal before the Sessions Court. Therefore, in the absence of any such affidavit, the above plea taken by the applicant has to be declared completely false.

By this time, it is well settled that each day's delay has to be explained in a mathematical manner, but the applicant, instead, has taken a routine plea for condoning such an inordinate delay of 1300 days.

In view of discussion made above, application for condonation of delay is dismissed. Resultantly, accompanying application under Section 378 (4) Cr.P.C. is also dismissed.

12.03.2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No