

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.14150 of 2017
and
Criminal Misc. No.A-842-MA of 2017 (O&M)

.....

Date of decision:13.02.2019

Anand Swarup

...Applicant

v.

Mukesh Kumar Jindal

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Gautam Kaile, Advocate for the applicant.

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Inderjit Singh, J.

Cr. Misc. No.14150 of 2017:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Mukesh Kumar Jindal for grant of leave to appeal against the impugned judgment dated 27.11.2015 passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, vide which the complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act') has been dismissed and the accused has been acquitted of the charges as framed against him.

Along with the above application seeking leave to appeal, an

application under Section 5 of Limitation Act, 1963 read with Section 482 Cr.P.C. has been filed for condoning the delay of 403 days in filing the appeal.

It has been stated in the application that earlier the appeal was filed with delay of 115 days, but the Registry raised some objections and the petition was returned on 06.07.2016. Thereafter, the paper book of the appeal was misplaced in the Court premises and on 17.03.2017 the same was found again. It has been stated that the delay in filing the appeal is neither deliberate nor intentional, but was on account of the reasons mentioned above.

I have heard learned counsel for the applicant and have gone through the record.

A perusal of the contents of the application itself shows that the delay of 403 days remained unexplained. Nothing has been mentioned as to on which date; where and how the file has been misplaced in the Court premises. There is also nothing as to when the file was recovered and from which place and on which date. Only a general averment has been made.

Keeping in view the averments made in the application, I find that there is a long delay in filing the appeal and application seeking leave to appeal and the applicant was grossly negligent in filing the application and appeal and such a huge delay has not been explained by giving any satisfactory explanation. Therefore, from the above, finding no merit in this application the same is dismissed.

Cr. Misc. No.A-842-MA of 2017:

Cr. Misc. No.14150 of 2017 and
Cr. Misc. No.A-842-MA of 2017 (O&M)
[3]

As the application seeking condonation of delay has been
dismissed, the application seeking leave to appeal is also dismissed.

February 13, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No