

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**CRM-M-43531-2018 (O&M)
Date of Decision: 5.2.2019**

Inderjit Singh and another

.....PETITIONER(s).

VERSUS

State of Punjab and another

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Akshit Aggarwal, Advocate, for
Mr. S.K.Singla, Advocate,
for the petitioner.

RAJ SHEKHAR ATTRI, J.(Oral)

Through this petition filed under Section 482 of Code of Criminal Procedure, the petitioner has challenged order dated 13.9.2018 (Annexure P-3) passed by learned Additional Sessions Judge, Ludhiana vide which an application for condonation of delay has been allowed.

Brief facts of the case are that a case FIR No.160 dated 12.11.2013 registered under Sections 325, 323, 354 (D), 506, 34 of Indian Penal Code at Police Station Payal, Ludhiana has been registered against the petitioners on the statement of the prosecutrix-Smt.Kirandeep Kaur. However, after concluding of the trial, the petitioners were acquitted of the charges framed against them vide judgment dated 18.4.2017.

A bare perusal of the interlocutory orders placed on the file transpires that at the time of passing final order, the complainant was not present. It is her case that she attained knowledge on 14.9.2017 and she applied for a certified copy which was prepared on 20.9.2017 and delivered to her on 7.10.2017. She filed the instant appeal on 16.12.2017.

Learned appellate court has observed that the limitation starts from the date when she attained knowledge i.e. 14.9.2017 and certified copy was prepared on 20.9.2017 which was delivered to her on 7.10.2017.

I have heard learned counsel for the petitioner and gone through the material available on record.

It is well settled that Section 5 of Limitation Act should receive liberal connotations so as to advance substantial justice. She is the victim and has right to file an appeal. Hon'ble Supreme Court in **S. Ganesharaju (D) LRs. and another v. Narasamma (D) Thr. LRs. and others**; 2013 (11) SCC 341 has observed as under : -

“15. The expression "sufficient cause" as appearing in Section 5 of the Indian Limitation Act, 1963, has to be given a liberal construction so as to advance substantial justice.

16. Unless Respondents are able to show malafide in not approaching the court within the period of limitation, generally as a normal rule, delay should be condoned. The trend of the courts while dealing with the matter with regard to condonation of delay has tilted more towards condoning delay and directing the parties to contest the matter on merits, meaning thereby that such technicalities have been given a go-by.

17. Rules of limitation are not meant to destroy or foreclose the right of parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly.

18. We are aware of the fact that refusal to condone delay would result in foreclosing the suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate.

19. In fact, it is always just, fair and appropriate that matters should be heard on merits rather than shutting the doors of justice at the threshold. Since sufficient cause has not been defined, thus, the courts are left to exercise a discretion to come to the conclusion whether circumstances exist establishing sufficient cause. The only guiding principle to be seen is whether a party has acted with reasonable diligence and had not been negligent and callous in the prosecution of the matter. In the instant case, we find that Appellants have shown sufficient cause seeking condonation of delay and same has been explained satisfactorily.”

Keeping in view the facts and reasons mentioned in the application, this Court is of the view that no case is made out for interference by this Court in the impugned order.

Dismissed.

(RAJ SHEKHAR ATTRI)
JUDGE

February 5, 2019
Paritosh Kumar

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>