

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

Sr.No.233

**Criminal Revision No.4449 of 2015(O & M)
Date of Decision:17.01.2019**

Avtar Singh

....petitioner

Versus

Balwinder Singh and another

.....respondents

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Paras Talwar, Advocate
for the petitioner

Mr.Vivek Sharma Vashisth, Advocate for
Mr.Gurcharan Dass, Advocate
for respondent No.1

Mr.Sidakmeet Sandhu, AAG Punjab

ARVIND SINGH SANGWAN, J. (ORAL):

Prayer in this revision petition is for setting aside the order dated 30.07.2015 passed by the Additional Sessions Judge, Ludhiana/lower appellate Court, vide which the application filed by the petitioner under Section 5 of the Limitation Act, for condonation of delay of 11 months was dismissed and consequently, the appeal was also dismissed without deciding on merits.

Learned counsel for the petitioner submits that the petitioner, in his application for condonation of delay has shown a bona fide cause for delay in filing of the appeal, which was not properly appreciated and the petitioner has been non-suited on a technical ground, though, it is a well settled principle of law that no one should be condemned un-heard.

Learned counsel for the petitioner submits that the matter may be remitted to the lower appellate Court for its decision on merits.

Learned counsel for the respondent has no objection if the matter is remitted to the trial Court for its decision afresh.

In view of the above, the present petition is allowed. The impugned order dated 30.7.2015 is set aside. Delay in filing the appeal before the lower appellate Court is condoned. The matter is remitted to the lower appellate Court for its decision on merits. The parties are directed to appear before the lower appellate Court on 28.01.2019.

(ARVIND SINGH SANGWAN)
JUDGE

17.01.2019

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Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No