

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

**CRR No.3204 of 2017 (O&M)
DATE OF DECISION:-05.02.2019**

STATE OF HARYANA

...PETITIONER...

V.

RAMESHWAR PARSAD SINHA

...RESPONDENT...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Raj Kumar Makkar, Sr. DAG, Haryana
for the petitioner.

None for the respondent.

RAMENDRA JAIN, J. (ORAL)

CRM-28524-2017

Through this application under Section 5 of the Limitation Act, prayer has been made for condonation of delay of 526 days in filing the instant revision.

Heard.

Learned State counsel submits that after discharge of the accused, ld. District Attorney, Kurukshetra forwarded his comments vide memo No.3822 dated 30.11.2015 to the office of Superintendent of Police, Kurukshetra, who further forwarded the same for filing revision to District Magistrate, Kurukshetra vide memo No.51967 dated 23.12.2015. Thereafter, the time consumed in the office of

District Magistrate and Advocate General Haryana.

The above plea taken by State for condonation of delay is being taken since last 2-3 decades in general by almost every litigant. Much water has already flown. Now, it is the need of hour that the official machinery should sensitize and may think thousand times before adopting any legal course. Since no cogent reason or plausible explanation has been furnished by the applicant-State for condonation of delay in filing the revision petition, therefore, the application is dismissed.

The case is also dealt with on merit.

In nutshell, respondent along with three others were booked, tried and convicted in FIR No.208 dated 04.07.2002, under Sections 406, 409 and 120-B IPC by the trial court vide judgment of conviction dated 28.09.2010 and order of sentence dated 29.09.2010, on the allegations that Sushil Singh, Madan Singh, Rajbir Singh and Rameshwar Prashad Sinha had criminally misappropriated the paddy/rice stocks belonging to State Ware Housing Corporation, violating the terms and conditions of the agreement as well as government policies and thus, have caused a financial loss of Rs.42,95,506/- to the State. Rameshwar Parsad Sinha had delivered the entire quantity of paddy to accused No.1 to 3 without obtaining the advance CMR/delivery. Consequently, respondent was sentenced to undergo rigorous imprisonment for a period of 3 years under Section 409 IPC, vide order of sentence dated 29.09.2010.

Being aggrieved, respondent approached the first appellate court, who affirming the judgment of the trial court, holding respondent guilty under Section 409 IPC, released him on probation of good conduct for a period of six months on his furnishing personal bonds in the sum of Rs.50,000/- with one surety in the like amount, vide impugned judgment dated 19.11.2015.

Learned State counsel contends that first appellate court had failed to appreciate that respondent had delivered the entire quantity of paddy to accused No.1 to 3 without obtaining the advance CMR/delivery, thus, causing financial loss of Rs.42,95,506/- to the State.

Having given thoughtful consideration to the submissions, this Court finds instant revision being devoid of any merit for the reasons to follow:-

1. Respondent was released by the first appellate court vide judgment dated 19.11.2015 on probation of good conduct for a period of six months. Since, then more than three years have passed, but nothing has been brought on record by the State as to whether the private respondent ever violated terms and conditions of his probation bond or repeated aforesaid act disturbing law and peace or ever indulge in any criminal activity.

2. The first appellate court, in its wisdom, was empowered and had a legal right to release the private respondent on probation. Therefore, it has not exceeded its jurisdiction or has not

acted beyond its jurisdiction.

3. This Court, being revisional court has a very limited jurisdiction, which can only be exercised on 3 following reasons:- (i) if the court below has exceeded its jurisdiction; (ii) has exercised its jurisdiction illegally and; (iii) has not exercised its jurisdiction diligently. No such circumstances could be pointed out by learned counsel for the petitioner to this Court.

4. Learned counsel for the petitioner has miserably failed to prove on record that how, and in what manner the first appellate court has exercised its jurisdiction illegally in releasing the private respondent on probation.

I have gone through the impugned judgment dated 19.11.2015 and find no illegality and infirmity in the same. Accordingly, the same is upheld and instant revision petition is dismissed.

05.02.2019

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(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:
whether reportable:

Yes/No
Yes/No