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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-29710-2013 in/and
CRM-A-292-MA-2013 (O&M)
Date of Decision: 13.11.2019

Asha Rani

.. Applicant

Vs.

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. K.S. Brar, Advocate for
Mr. S.P.S. Sidhu, Advocate
for the applicant.

Mr. Ramdeep Partap Singh, DAG, Punjab.

Mr. P.S. Ahluwalia, Advocate
for respondent Nos.2 and 3.

None for respondent No.4.

...

Manoj Bajaj, J.

CRM-29710-2013

This is an application for condonation of delay of 574 days in
filing the accompanying appeal.

Learned counsel for the applicant contends that previously, the
impugned order dated 14.07.2011 was challenged through CRM-M-25117-
2011 and the same was subsequently allowed to be withdrawn with liberty
to avail the remedy of appeal. The said order is being reproduced herein
below:

*“Counsel for the petitioner seeks permission to
withdraw this petition at this stage with liberty to
avail the remedy under Section 378(4) Cr.P.C. or*

under Section 372 Cr.P.C. besides liberty to avail right of filing civil case against the respondent.

Disposed of as withdrawn with above said liberties.”

Learned counsel for the applicant submits that thereafter, the present appeal was filed which carried the above delay. According to him, the delay behind this appeal is bona fide and unintentional.

Mr. Ahluwalia does not dispute the factual aspects.

For the reasons mentioned in the application, the same is allowed. Delay of 574 days in filing the appeal is condoned.

CRM-A-292-MA-2013

Asha Rani-applicant has preferred this appeal to challenge the order dated 14.07.2011 passed by the learned Judicial Magistrate Ist Class, Patiala, whereby the complaint registered under Sections 427, 447 and 506 of the IPC was dismissed for want of prosecution.

Learned counsel for the applicant contends that the impugned order was passed on 14.07.2011, after three years from the date of filing of the complaint, on account of the absence of the complainant as well as her counsel, the complaint was dismissed for non prosecution. He submits that the complainant and her counsel could not appear as they had noted down a wrong date. He submits that the absence of the applicant on 14.07.2011 was neither wilful nor intentional.

Many a times, the accused or her counsel can be prevented by sufficient reasons to put an appearance before the Court on a given date and every such absence cannot be necessarily construed as a deliberate and wilful absence. The explanation offered for non appearance before the trial

Court appears to be justified and, therefore, the same is accepted.

In view of above, the impugned order dated 14.07.2011 is set aside, the complaint is restored to its original number for further proceedings, and the trial Court shall proceed with the complaint in accordance with law.

Let the parties appear before the trial Court on 17.12.2019.

Disposed off.

13.11.2019
Jasmine Kaur

**(MANOJ BAJAJ)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes
No