

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

**RSA No.5780 of 2016 (O&M)
Date of Decision.25.03.2019**

Kela Devi

...Appellant

Vs

State of Haryana and another

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Nitish Garg, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.15162-C of 2016

For the reasons stated in the application, delay of 25 days
in re-filing of the appeal is condoned.

Application is allowed.

C.M. No.15164-C of 2016

In view of the decision taken in the main appeal, the
application for filing the appeal as indigent person is dismissed.

RSA No.5780 of 2016 (O&M)

The point involved in the present appeal is whether the
suit of the plaintiff filed in 2012 claiming damages to the tune of Rs.7
lakhs on account of negligence on behalf of defendant No.2 in
performing operation in 2001, in the absence of negligence was
maintainable, the answer would be 'no'.

Learned counsel for the appellant submitted that the
earlier suit filed was withdrawn in 2008 but no explanation has come
forward for filing the suit in 2012. The limitation for filing the suit
claiming damages on account of malicious prosecution is one year.

The appeal is also accompanied by application for condonation of delay of 160 days in filing of the appeal. The explanation given is not plausible and bona fide.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact rendered by courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed both on the grounds of delay and merit.

(AMIT RAWAL)
JUDGE

March 25, 2019
Pankaj*

Whether Reasoned/Speaking	Yes
Whether Reportable	No