

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

CM-23454-CII-2018 in/&
FAO-300-2018 (O&M)
Date of decision: September 05, 2019

Parminder Singh ...Appellant

Versus

Simranjeet Kaur ...Respondent

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Deepak Aggarwal, Advocate for the applicant-appellant.
Mr. Gaurav Sharma, Advocate for the respondent.

Rajan Gupta, J.(oral)

CM-23454-CII-2018:

This is an application under Section 5 of the Limitation Act for condonation of 1034 days delay in filing the appeal.

Appellant-husband preferred a petition under Section 13 of the Hindu Marriage Act before the court below seeking divorce on the ground that respondent-wife had treated him with cruelty. The court framed the issues and allowed the parties to lead their evidence. On consideration of same, it came to the conclusion that there was no evidence of cruelty or desertion on the part of respondent-wife. It, thus, dismissed the petition. Applicant/appellant has preferred the instant appeal after a delay of 1034 days. His application is supported by an affidavit. We have perused the same. The ground given therein for condonation of delay is that an FIR

under Sections 406 and 498-A IPC lodged by the wife was pending. Other proceedings under the Domestic Violence Act and Section 9 of the Hindu Marriage Act were also pending. In view of same, efforts were afoot to settle the matter amicably. As efforts remained futile, the appellant preferred the appeal. We find that this is not sufficient ground for condonation of delay. On the other hand, in case litigation was pending and appellant wanted to pursue his remedy against the judgment and decree under challenge, he should have been prompt enough to file the appeal well in time. Same has, however, been filed after a huge delay of 1034 days. He has not been able to give any plausible reason for the inordinate delay in filing the appeal.

We have also perused the judgment in question. Vague allegations of cruelty have been levelled against them. It appears that the witnesses appeared in his support could not prove the ingredients of cruelty. As we are not convinced that there are strong reasons to condone the delay, the application is hereby dismissed.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

September 05, 2019
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No