

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL REVISION CASE NO.1364 OF 2019

ORDER:

This Criminal Revision Case is filed by the petitioner-accused under Sections 397 and 401 of the Code of Criminal Procedure, 1973, challenging the order, dated 01.11.2019 in CrI.M.P.No.2731 of 2019 in CrI.A.SR.No.10457 of 2019 on the file of the Metropolitan Sessions Judge, Hyderabad.

Heard the learned counsel for the petitioner-accused and the learned Additional Public Prosecutor representing the State.

The petitioner herein filed CrI.M.P.No.2731 of 2019 before the Metropolitan Sessions Judge, Hyderabad, to condone the delay of 1030 days in preferring the appeal against the judgment, dated 23.08.2016 in C.C.No.603 of 2015 on the file of the XVIII Additional Chief Metropolitan Magistrate, Hyderabad. The learned Sessions Judge after considering the material on record, dismissed the petition. Hence, this revision.

The learned counsel for the petitioner submits that the Court below has not considered the fact that the first respondent filed this false complaint by misusing the cheques issued as security. Further, the amount due was paid by the petitioner to other partners and no dues exist. It is further stated that the petitioner was suffering from ill-health and depression due to financial losses and was unable to conduct the business. It is further submitted that the petitioner went into serious health problems and yet to recover. Even during his stay in the jail, he was taken to Osmania Hospital thrice and hence, he prays to allow the Revision.

The learned Additional Public Prosecutor submits that the Court below after considering the material on record, rightly dismissed the petition filed for condonation of delay and hence, he prays to dismiss this revision.

The learned Sessions Judge, while dismissing the petition filed to condone the delay in preferring the appeal, observed that except the self-serving plea, no details are mentioned much less any evidence is filed to that effect. It is further observed that the accused engaged a counsel but the said counsel failed to file the appeal on time and appellant/accused suffered ill-health, cannot be considered as sufficient reason for explanation of delay. The vague and unsubstantiated averments cannot be made basis for condoning the inordinate delay of 1030 days, particularly, when the explanation of the accused is casual without any justifiable ground. Further in criminal prosecution, valuable right accrues on the other party in cases of conviction or acquittal and held that the appellant/accused failed to properly account for the delay.

The petitioner is in custody since 17.09.2019, which shows that he has also undergone one third (1/3rd) period of sentence. The order further reveals that the burden rests on the petitioner, who seeks the relief for condonation of delay.

It is needless to say that while disposing of the applications of this nature, the approach of the Court shall be pragmatic, but not pedantic. Each day's delay may not be explained by the party, who is seeking condonation of delay. The appellate Court, while dealing with such applications, ought to have considered the grounds taken by the petitioner.

Taking into consideration the facts and circumstances of the case and also the fact that the petitioner has already undergone imprisonment for four months i.e., he has undergone one third of the imprisonment, which was imposed by the trial Court, I deem it appropriate to allow the revision by setting aside the order passed by the appellate Court.

Accordingly, the Criminal Revision Case is allowed setting aside the order, dated 01.11.2019 in CrI.M.P.No.2731 of 2019 in CrI.A.SR.No.10457 of 2019 on the file of the Metropolitan Sessions Judge, Hyderabad, and consequently, the delay of 1030 days in preferring the appeal is condoned. The appellate Court is directed to register the appeal and release the petitioner forthwith imposing certain terms and conditions, which may deem fit and proper in the circumstances of the case.

Miscellaneous applications, if any, pending shall stand closed.

(G. SRI DEVI, J)

18th February 2020
RRB