

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. CRM-A-798-MA-2013 (O&M)

District Appropriate Authority-cum-Civil Sugeon, Kurukshetra

..... Applicant

Versus

Dr. (Mrs.) Sunita Singh and others

..... Respondents

2. CRM-A-799-MA-2013 (O&M)

District Appropriate Authority-cum-Civil Sugeon, Kurukshetra

..... Applicant

Versus

Dr. V.P. Aggarwal

..... Respondent

Date of decision: 28.02.2020

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. NS Shekhawat, Advocate for the applicant.

RAMENDRA JAIN, J. (ORAL)

By this common order, above titled two criminal miscellaneous applications are being disposed of, as similar facts are involved therein.

Through applications bearing CRM-41310-2013 in CRM-A-798-MA-2013 and CRM-41311-2013 in CRM-A-799-MA-2013, under Section 5 of the Limitation Act, prayer has been made for condonation of delay of 750 and 845 days, respectively, in filing applications seeking leave to file accompanying appeals against judgment of trial Court dated 17.02.2011, acquitting respondents in Criminal Complaints No. 270 of

2003 and 127 of 2006, filed by applicant under Section 28 of the Pre Natal Diagnostic Technique (Regulation and Prevention of Misuse) Act, 1994, amended in 2002 and Rules made thereunder (for short-'the Act').

The grounds taken in the applications are that after dismissal of complaint under Section 28 of the Act, vide impugned judgment dated 17.02.2011, the applicant filed separate appeals before the Sessions Court, which were finally dismissed being not maintainable vide orders dated 01.04.2013 (in CRM-A-798-MA-2013) and 22.03.2013 (in CRM-A-799-MA-2013), after around two years. Thus, delay of 750 and 845 days, respectively, occurred in filing both the applications under Section 378(4) Cr.P.C. and accompanying appeals, which is not intentional or deliberate.

Heard.

After giving thoughtful consideration, this Court finds no merit in both the applications for the reasons to follow:

Ignorance of law is no excuse.

Applicant is not an illiterate person, rather is a Class-I Officer-Civil Surgeon and qualified doctor. It cannot be expected of such a high ranking officer that he was not aware about the intricacies of law. Even otherwise, applicant in his official capacity was well equipped with legal infrastructure, inasmuch as, complaint under Section 28 of the Act was filed through Public Prosecutor. The prosecution agencies at district level is round the clock available for the Government functionaries. Thus, it does not lie in the mouth of applicant that delay of such an inordinate period occurred for choosing wrong forum to file appeal.

It is also well-settled proposition of law that each day's delay has to be explained in a mathematical manner, which the applicant has not done so. Rather, he has miserably failed to explain any genuine reason for delay of 750 and 845 days, respectively in filing both the applications.

It is needless to mention here that above plea taken by the applicant for condonation of delay is being taken since last 2-3 decades in general by almost every litigant. Much water has already flown. Therefore, the above explanation for condonation of delay in filing both the applications is not justifiable or believable.

Hence, both the applications under Section 5 of the Limitation are dismissed.

Since, the applications for condonation of delay in filing both the criminal miscellaneous applications as well as accompanying appeals bearing CRM-A Nos. 798 and 799-MA-2013 under Section 378 (4) Cr.P.C., are dismissed on merits, therefore, no separate order is required to be passed therein, seeking leave to file appeal against the judgment of acquittal. The same also stand dismissed.

February 28, 2020
rishu

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No