

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

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**CRR-991-2020 (O&M)
Decided on : 08.07.2020**

Vikas Jain

... Petitioner

Versus

Balbir Singh

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.R.S.Hooda, Advocate, for the petitioner.

(The proceedings are being conducted through video conferencing,
as per instructions.)

G.S. Sandhawal, J. (Oral)

Present revision petition is directed against the judgment of the JMIC, Chandigarh dated 04.09.2013, whereby the petitioner was convicted for a period of one year and to pay compensation of Rs.3,25,000/-, on account of the complaint filed by the respondent under Section 138 of the Negotiable Instruments Act, 1881. The cheque in question was for Rs.2,50,000/- which was dishonoured due to insufficient funds. Challenge has also been raised to the order passed by the Sessions Judge, Chandigarh dated 04.06.2014 in appeal wherein the only modification made was that the period of imprisonment of one year was reduced to nine months on account of the fact that the petitioner was facing trial since 2011. It was, in such circumstances, the application for condonation of delay of 2131 days in filing the present petition has also been filed, on account of the fact that the petitioner was in judicial custody since 12.12.2019.

It is pertinent to notice that counsel for the petitioner had not put in appearance before the Sessions Judge when his appeal was decided. For a period of more than 5 years petitioner remained out of reach and it was only when he was arrested in pursuance of the warrant of sentence having been executed, he has filed the present revision petition on 16.03.2020.

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In the application for condonation of delay, no sufficient cause, as such, has been made out as to why the delay of 6 ½ years was caused apart from the averments that petitioner was a poor person and was not having sufficient income. Once the petitioner had filed the appeal against the order of the JMIC, it was his bounden duty to keep a track of the said appeal and appear before the Lower Appellate Court and surrender once the appeal was decided against him. It was only on account of the sentence warrant having been executed, he has chosen to file the present revision petition.

It is settled principle that sufficient cause is to be made out for condoning the delay and the petitioner cannot get any bonus for his negligence in not prosecuting his legal remedies. The Apex Court in **Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation & another** 2010 (5) SCC 459 has held that a liberal approach has to be followed for periods of short delay but where the delay is inordinate, a stricter approach is to be applied. Resultantly, the delay of 1067 days (4 years) as condoned by the High Court was set aside. The delay of 6 ½ years also falls in the same category. The relevant part reads as under:

“8. We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the

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delay, if sufficient cause is shown for not availing the remedy within the stipulated time. The expression "sufficient cause" employed in [Section 5](#) of the Indian Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which sub serves the ends of justice. Although, no hard and fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate - [Collector, Land Acquisition, Anantnag v. Mst. Katiji](#) (1987) 2 SCC 107, [N. Balakrishnan v. M. Krishnamurthy](#) (1998) 7 SCC 123 and [Vedabai v. Shantaram Baburao Patil](#) (2001) 9 SCC 106. In dealing with the applications for condonation of delay filed on behalf of the State and its agencies/instrumentalities this Court has, while emphasizing that same yardstick should be applied for deciding the applications for condonation of delay filed by private individuals and the State, observed that certain amount of latitude is not impermissible in the latter case because the State represents collective cause of the community and the decisions are taken by the officers/agencies at a slow pace and encumbered process of pushing the files from table to table consumes considerable time causing delay - [G. Ramegowda v. Spl. Land Acquisition Officer](#) (1988) 2 SCC 142, [State of Haryana v. Chandra Mani](#) (1996) 3 SCC 132, [State of U.P. v. Harish Chandra](#) (1996) 9 SCC 309, [State of Bihar v. Ratan Lal Sahu](#) (1996) 10 SCC 635, [State of Nagaland v. Lipok Ao](#) (2005) 3 SCC 752, and [State \(NCT of Delhi\) v. Ahmed Jaan](#) (2008) 14 SCC 582.

9. In the light of the above, it is to be seen whether the respondents had offered any plausible/tangible explanation for the long delay of more than four years in filing of appeal and the High Court was justified in condoning the delay.”

Even otherwise, it is apparent that out of the 9 months sentence, as modified by the Sessions Court, at present, the petitioner has already

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undergone approximately 7 months. In such circumstances, this Court is of the opinion that no cause is made out to condone the inordinate delay of 2131 days in filing the present revision petition and entertain the same, in the above facts and circumstances.

Accordingly, the application for condonation of delay of 2131 days in filing the revision petition is dismissed and resultantly, the revision petition also stands dismissed.

JULY 08, 2020
sailesh

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No