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

**CRR No.1700 of 2018 (O&M)
Date of Decision: 07.02.2020**

GAMDOOR SINGHPetitioner
Vs
STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

[1]. This crl. revision petition has been preferred against the order dated 02.02.2016 passed by the Judicial Magistrate Ist Class, Sunam and order dated 27.02.2018 passed by the Addl. Sessions Judge, Sangrur.

[2]. Petitioner was an accused in case bearing FIR No.206 dated 24.12.2012 registered under Sections 302, 307, 450, 452, 120-B, 109, 148, 149 IPC and Sections 25/27/30 of the Arms Act at Police Station Dirba District Sangrur.

[3]. Petitioner was declared to be a proclaimed offender. The prosecution filed an application for attachment of the property of the petitioner. Vide order dated 22.02.2013 passed by the Judicial Magistrate Ist Class, Sunam the property of the

petitioner was attached till his arrest.

[4]. Thereafter vide order dated 23.04.2015 passed in CRM-M No.12415 of 2015, the petitioner was directed to surrender before the trial Court within a period of 10 days and his bail application was to be considered by keeping in view the totality of facts and circumstances. In compliance of the aforesaid order dated 23.04.2015, the petitioner had surrendered before the trial Court in time.

[5]. In FIR No.46 dated 15.04.2015 registered under Section 174-A IPC at Police Station Dirba petitioner was acquitted vide order dated 23.02.2016.

[6]. The application for release of the property of the petitioner from attachment was ultimately dismissed by the Judicial Magistrate Ist Class, Sunam on 02.02.2016. Against the said order, the petitioner filed an appeal before the Addl. Sessions Judge, Sangrur along with application under Section 5 of the Limitation Act. Delay of 8 months 20 days had occurred in filing the appeal for the reasons mentioned in the application itself.

[7]. The lower Appellate Court dismissed the application under Section 5 of the Limitation Act. As a consequence of the said order, the appeal was also dismissed. The lower Appellate

Court has not condoned the delay on the ground that the appellant should not have slept over the issue for such a long period.

[8]. I have considered the submissions made by learned counsel for the parties.

[9]. The law relating to condonation of delay has to be liberally construed unless and until a valuable right of the opposite party is taken away by such condonation of delay. In the present case, the issue is regarding attachment of immovable property of the petitioner. No third party interest has crept in so far.

[10]. In **Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy and others, 2013(4) CivCC 399** and **State of Rajasthan and another Vs. Bal Kishan Mathur (D) through LRS and others, 2013(4) CivCC 805**, it has been held by the Hon'ble Apex Court that the meritorious matters should not be thrown at the verge of technicalities.

[11]. In **Collector, Land Acquisition Anantnag vs. Mst. Katiji, (1987) 2 SCC 107**, the Hon'ble Apex Court has also observed that there cannot be any uniform jacket to assess bona fide of the person in explaining each and every hours/ minutes and seconds of delay. The merits of the case cannot be

sacrificed at the threshold of technicalities. The delay is not such which will deprive the petitioner from exercise of discretion by the Court by way of condoning the delay particularly when no 3rd party interest has been crept in. Immovable property of the petitioner has been attached.

[12]. Learned State counsel on instructions from SI Sat Parkash submitted that the petitioner has already been acquitted in FIR No.206 dated 24.12.2012 registered under Sections 302, 307, 450, 452, 120-B, 109, 148, 149 IPC and Sections 25/27/30 of the Arms Act at Police Station Dirba District Sangrur.

[13]. Taking into totality of the attending facts and circumstances of the case, I deem it appropriate to set aside the order dated 27.02.2018 passed by the Addl. Sessions Judge, Sangrur and remand this case to the lower Appellate Court with a direction to condone the delay in filing the appeal before it and decide the appeal on merits by taking into consideration of the facts and attending circumstances of the case as narrated in preceding part of the order. This petition is accordingly allowed.

February 07, 2020

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No