

CRM-A-719-2019

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

CRM-A-719-2019 (O & M)
Date of Decision: 28.02.2020

State of Haryana

... Applicant

Versus

Parvesh Kumar Batra and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Pawan Kumar Jhanda, AAG, Haryana.

Mr. Rajesh Sethi, Advocate,
for respondent No.1.

HARNARESH SINGH GILL, J.(Oral)

Reply to the delay application on behalf of respondent No.1 has been filed in the Court today. The same is taken on record.

Special leave to appeal has been sought against the judgment dated 02.12.2013 passed by the learned Chief Judicial Magistrate, Kurukshetra, vide which the respondents were acquitted of the notice of accusation served upon them.

The facts, in brief, giving rise to the present application under Section 378(4) Cr.P.C. are to the effect that the Drugs Control Bureau Officer, Kurukshetra, filed a complaint under the Drugs and Cosmetics Act, 1940 as well as Rules made thereunder against the respondents-accused with allegations that on 19.04.2001, a sample of Dextrose Injection I.P. 25% W/V Batch No.188 MQ manufacturing date 11/2000 and expiry date 10/2002

CRM-A-719-2019

manufactured by M/s Venus Remedies Ltd., 51-52, Industrial Area, Phase-I, Panchkula, alongwith two other samples of drugs, had been taken for test, but the same had not been found of standard quality.

The trial Magistrate, while appreciating the evidence, acquitted the respondents-accused of the notice of accusation served upon them vide the impugned judgment dated 02.12.2013.

Being dissatisfied, the applicant-State preferred an appeal before the learned Sessions Judge, Kurukshetra. However, the learned Additional Sessions Judge, Kurukshetra, dismissed the said appeal being not maintainable, vide judgment dated 22.08.2017.

There is a delay of 1790 days in filing the present application under Section 378(4) Cr.P.C.

Learned State counsel submits that the delay in filing the application seeking leave to appeal after dismissal of appeal, is not intentional but is on account of departmental/administrative procedures involved therein.

Per contra, the learned counsel for respondent No.1 objects to the conduct of the applicant in approaching this Court after enormous unexplained delay in filing the application seeking leave to appeal. In support of his contentions, the learned counsel relies upon Office of the Chief Post Master General and others Vs. Living Media India Ltd. and another 2012 AIR (SC) 1506.

I have heard learned counsel for the parties and with their able assistance, have gone through the record.

The learned Chief Judicial Magistrate, Kurukshetra,

CRM-A-719-2019

acquitted the accused, vide judgment dated 02.12.2013. However, the appeal was filed on 01.03.2014, which had been dismissed on 22.08.2017. Even thereafter, the application seeking leave to appeal was filed on 20.12.2018 i.e. after a delay of more than one year.

Learned State counsel has failed to submit any plausible explanation for condoning the delay even after dismissal of appeal. The delay in filing the application under Section 378(4) Cr.P.C. cannot be condoned merely because the Government is a party. The law of limitation undoubtedly binds everybody including the Government.

The Hon'ble Supreme Court in Chief Post Master General & Ors. (supra), it has been held as under:

“13. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable

CRM-A-719-2019

and cogent reasons sufficient to condone such a huge delay.”

Considering the fact that there is no proper explanation offered by the State for the delay except mentioning of various dates. The State has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay.

Without going into the merits of the case, the present application is dismissed on the ground of delay.

28.02.2020
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Note: Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No