

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 311 of 2020

Chandrika Bai, D/o Anand Ram Satnami, Aged About 58 Years, R/o Khairjhitti, Police Station & Tahsil- Bilaigarh, District- Balodabazar-Bhatapara (C.G.)

---- Petitioner

Versus

1. Anandram, S/o Jageshar Satnami, Aged About 60 Years.
2. Damru, S/o Anandram, Aged About 22 Years.
3. Mansha, S/o Anandram, Aged About 30 Years.
4. Hemlal, S/o Anandram, Aged About 20 Years.
5. Mangli Bai, W/o Anandram, Aged About 58 Years.
6. Sahodra Bai, W/o Damru, Aged About 19 Years.

All are by Caste- Satnami, R/o Village- Arjuni, Tahsil- Bilaigarh, District- Balodabazar-Bhatapara (C.G.)

---- Respondents

For Petitioner : Mr. Anurag Khatri, Advocate.

For Res. No. 1 to 3, 5 & 6 : Mr. Krishna Kumar Dewangan, Adv.

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

22/06/2021

1. The petitioner/ complainant has filed this petition under Section 482 of the Cr.P.C. through High Court Legal Aid Committee challenging legality and propriety of order dated 10.01.2020 (Annexure P/1) passed by third Additional Sessions Judge, Balodabazar, District- Balodabazar-Bhatapara (C.G.) in Criminal Revision No. 1086/2019 (Filing No.) by which the revision petition filed by the petitioner has been dismissed on the ground that the revision petition is 36 days barred by limitation.
2. The brief facts as projected by the petitioner are that the petitioner/complainant has filed complaint against respondent

No. 1 to 6, which was dismissed on 29.08.2019 for want of prosecution, though, the petitioner was appeared before the trial court, her thumb impression was recorded in the order-sheet and she was informed that next date of hearing is 06.11.2019. When she contacted her counsel, it was informed by her counsel that the complaint has already been dismissed on 29.08.2019. After receiving this information from her counsel, the petitioner applied for certified copy of the order, which was provided to her on 13.11.2019.

3. Since, the petitioner is poor lady, she applied for providing legal aid and legal aid was provided to her on 15.11.2019 and on 17.11.2019, it was holiday, therefore, she filed revision before the learned District Judge, Balodabazar-Bhatapara on 18.11.2019 with 36 days delay, which was heard by third Additional Sessions Judge, Balodabazar. The petitioner was also filed application for condonation of delay in filing the revision petition mentioning reasons for not filing the petition within time. The learned third Additional Sessions Judge by impugned order dated 10.01.2020, rejected the criminal revision filed by the petitioner as barred by limitation.
4. Learned counsel for the petitioner submits that the delay in filing the revision petition is bonafide and the same deserved to be condoned by the revisional court. He further submits that the order passed by the learned revisional court is bad in law and not in accordance with law, as such, the same is liable to be quashed and the revisional court may kindly be directed to decide the revision petition on merits.
5. On the other hand, learned counsel for respondent No. 1 to 3, 5 & 6 would submit that the order passed by learned revisional court is legal, justified and not liable to be interfered by this Court. He would further submit that the petitioner has not made any case for condonation of delay as no sufficient cause has been shown for not filing the revision petition within stipulated time.

6. Learned Additional Sessions Judge vide impugned order dated 10.01.2020 (Annexure P/1) dismissed the revision petition filed by the petitioner as barred by limitation. The issue which requires for consideration before this Court is whether there is sufficient ground for condonation of delay and the petitioner has properly explained the delay of 36 days in filing the revision petition.
7. It is well settled by the Supreme Court that there cannot be any rigid ground to be held with sufficient cause for condoning the delay. The basic parameter for treating the reasons as sufficient cause is whether by not filing the case within the stipulated time framed right of any party is adversely affected.
8. The Supreme Court in catena of decisions has held that the Courts should adopt a liberal and justice-oriented approach for condoning the delay. Ordinarily a litigant does not stand to benefit by lodging an appeal late. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.
9. The Hon'ble Supreme Court in **Bhivchandra Shankar More Vs. Balu Gangaram More & others**¹, held as under:-

“15. It is a fairly well settled law that “sufficient cause” should be given liberal construction so as to advance sustainable justice when there is no inaction, no negligence nor want of bonafide could be imputable to the appellant. After referring to various judgments, in *B. Madhuri Goud v. B. Damodar Reddy* [(2012) 12 SCC 693], this Court held as under:- (SCC p. 696, para 6)

“6. The expression “sufficient cause” used in Section 5 of the Limitation Act, 1963 and other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which serves the ends of justice. No hard-and-fast rule has been or can be laid down for

¹ (2019) 6 SCC 387

deciding the applications for condonation of delay but over the years courts have repeatedly observed that a liberal approach needs to be adopted in such matters so that substantive rights of the parties are not defeated only on the ground of delay.”

16. Observing that the rules of limitation are not meant to destroy the rights of the parties, in *N. Balakrishnan v. M. Krishnamurthy* [(1998) 7 SCC 123], this Court held as under: (SCC pp. 127-28, para 11)

“11. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim *interest reipublicae ut sit finis litium* (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”

10. Similarly, it is also well settled by the Supreme Court that the condonation of delay must be on bonafide reason without any ulterior motive or any deliberate manner on the part of the litigant then only the delay in filing the application before the Court should be entertained. The learned third Additional Sessions Judge should have considered that the petitioner

was not able to get legal service of lawyer because of her financial crunches, as such, she has taken legal aid of District Legal Services Authority, which clearly establishes that the petitioner was willing to prosecute her case with most sincerity and sufficient bonafide reasons have been assigned by the petitioner to condone the delay.

11. Considering the facts and circumstances of the case, the present petition is allowed and the impugned order dated 10.01.2020 (Annexure P/1) passed by learned third Additional Sessions Judge, Balodabazar, District- Balodabazar- Bhatapara (C.G.) is quashed and delay in filing the revision petition is hereby condoned.
12. It is directed that Criminal Revision No. 1086/2019 (Filing No.) filed by the petitioner (*Chandrika Bai Vs. Anandram & others*) be restored. The parties are directed to appear before third Additional Sessions Judge, Balodabazar, District- Balodabazar- Bhatapara (C.G.) on **17th August, 2021** and the case will be decided in accordance with law.
13. It is made clear that this Court has not expressed any opinion on merits of the case, but the facts have been mentioned to examine, whether the sufficient cause has been made out or there is proper explanation to delay in filing the revision petition.
14. Accordingly, the present petition is allowed.

Sd/-
(Narendra Kumar Vyas)
Judge