

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-48925-2021
Date of decision : 1.12.2021

Paramjit Kaur

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present: Mr. Tejinderbir Singh, Advocate for the petitioner.

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

Sant Parkash, J.

Present petition under Section 482 of the Code of Criminal Procedure has been filed seeking quashing of order dated 14.02.2020 passed by the learned Additional Sessions Judge, Kapurthala, dismissing the application under Section 5 of the Limitation Act for condonation of delay of 8 months and 12 days in filing of the revision petition by the petitioner against the order of dismissal of Criminal Complaint No.144 dated 21.8.2008 by the Judicial Magistrate, 1st Class, Kapurthala.

Brief facts of the case are that the petitioner is a complainant in FIR No.206 dated 18.7.2007 under Sections 382, 341, 354, 506 IPC at Police Station City, Kapurthala registered against respondent No.2, in which the police had filed a cancellation report before the learned trial Court. During the pendency of the FIR, the petitioner filed a Criminal Complaint No.144 dated 21.8.2008 under Sections 382, 341, 323, 354, 506 IPC against respondent No.2, which was dismissed by learned JMIC,

Kapurthala vide order dated 13.10.2015.

Aggrieved from the order dated 13.10.2015, petitioner preferred a revision petition accompanied with an application for condonation of delay of 8 months and 12 days. The said revision petition as well as the application for condonation of delay were contested by the respondents by filing reply. On the basis of pleadings of the parties, the learned court framed the following issues:

- “1. Whether there are sufficient grounds for condoning delay in filing of present appeal? OPA.
2. Relief.”

After considering the evidence led by both the parties, learned court concluded that the medical condition of the petitioner was not such that she could not able to file the revision against the order dated 13.10.2015 well in time and that she came to know about dismissal of her complaint only on receipt of certified copy of order on 7.10.2016. It has also been observed that the revisionist/complainant continuously appeared before the learned trial Court till dismissal of the complaint vide order dated 13.10.2015. The learned court accordingly dismissed the application for condonation of delay vide its order dated 14.02.2020, consequently, the revision petition could not be admitted for hearing.

Hence, the present petition.

Learned counsel for the petitioner submits that the petitioner is a patient of Tuberculosis and got her medical treatment from Civil Hospital, Kapurthala from 27.11.2008 to 3.6.2009. In the month of September, 2015, the medicine of Tuberculosis was reacted and her condition became serious.

She remained under treatment for a long time and therefore, she could not

apply for certified copy of order dated 13.10.2015, vide which her complaint was dismissed by the learned JMIC, Kapurthala. On 1.10.2016, she applied for getting the certified copy of the order dated 13.10.2015, which was delivered to her on 7.10.2016. Thus, there was a delay of 8 months and 12 days in filing the revision petition, which was neither intentional nor willful.

Heard.

From the perusal of the case file as well as the impugned order dated 14.2.2020, it would be revealed that the petitioner remained under treatment of Tuberculosis for the period from 27.11.2008 to 3.6.2009, whereas the complaint of the petitioner was dismissed on 13.10.2015. The plea of the petitioner that she could not apply for getting the certified copy of the order dated 13.10.2015 on account of her said disease, is without any substance as CW-2-Dr. Amandeep Kaur specifically deposed that the petitioner was an outdoor patient and she was not advised bed rest. Even in her cross-examination, CW-2 admitted that the said disease was pertaining to the period from 27.11.2008 to 03.06.2009 and that thereafter the same had cured. Apart from the above, Tuberculosis is not a serious disease that one can be prevented from attending the proceedings before the Court. Even otherwise, the order dated 13.10.2015, vide which the complaint of the petitioner was dismissed, has been passed in the presence of the counsel for the parties.

Section 5 of the Limitation Act, 1963 provides for the extension of prescribed period in certain cases and it is reproduced as under:-

“Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.”

During the course of arguments, learned counsel for the petitioner has miserably failed to point out that the delay was bonafide and there was any sufficient cause for not preferring the appeal or making the application within such period. As discussed earlier, the plea of the petitioner having been suffered from Tuberculosis cannot be a sufficient ground for condoning the delay. Otherwise also, it is by now settled that each and every day's delay has to be explained, which the petitioner has failed.

In view of the above, there is no patent illegality or perversity in the impugned order, which is supported by sound reasons and no fault can be found with it.

Resultantly, the present petition is dismissed, being devoid of any merit.

(SANT PARKASH)
JUDGE

01.12.2021
mks

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No