

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

**CRM-26733-2018 in/and
CRM-A-1508-MA-2018**

Date of Decision: 1st December, 2022

State of Haryana

... Applicant

Versus

Anil

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gurmeet Singh, AAG, Haryana.

AVNEESH JHINGAN , J.(Oral)

The application under Section 378 (3) Cr.P.C. for grant of leave against the judgment of acquittal dated 7.6.2017 passed by the Additional Sessions Judge, Karnal is accompanied by an application for condonation of delay of 309 days.

From the pleadings, it is forth coming that the non-applicant was acquitted vide judgment dated 7.6.2017. The opinion of the District Attorney, Karnal and Deputy District Attorney posted in the Office of State Vigilance Bureau, Rohtak was received that the case is fit for filing the appeal. No date is mentioned as to when opinion was received. The office of the Advocate General, Haryana opined that it is not a fit case for filing the appeal. A copy of the opinion was sent to the Legal Remembrancer and to the Secretary, Law Department, Haryana on 5.9.2017. Thereafter, on 16.4.2018, a request was made by Administration of Justice Department to Advocate General, Haryana to file the appeal. The appeal was filed on 10.7.2018.

Heard learned counsel for the State and perused the pleadings.

File was moved from one office to another at a leisure pace.

There is no explanation put forth worth acceptance for condonation of delay of more than three hundred days. Three opinions that is of Deputy District Attorney, District Attorney and Advocate General, Haryana were with the Department on first week of September, 2017, there is no explanation for more than nine months taken thereafter for filing the appeal.

The Supreme Court in ***Office of the Chief Post Master General and others Versus Living Media India Ltd. And another, 2012 AIR (Supreme Court), 1506*** as 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 and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.

The Supreme Court in *The State of Bihar and others Versus Deo Kumar Singh and others Special Leave Petition (Civil) Diary No.13348 of 2019*, decided on 9.5.2019 considering its decision in *Chief Post Master General case (supra)*, held that condonation of delay is no more admissible on the pretext of lethargic working of Government.

In case of *Amalendu Kumar Bera and others Versus The State of West Bengal 2013 (2) RCR (Civil) 534*, the Supreme Court held that the delay in filing the appeal or revision cannot be mechanically condoned, in the absence of 'sufficient cause' for delay.

No explanation has been put forth for explaining the delay for filing the application/appeal.

In absence of any explanation worth acceptance, the application for condonation of delay is dismissed. Consequently, the application under Section 378 (3) Cr.P.C. is dismissed as time barred.

(AVNEESH JHINGAN)
JUDGE

1st December, 2022

anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No