

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

**CRM-30555-2018 in/and
CRM-A-1782-MA-2018**

Date of Decision: 7th December, 2022

State of Haryana

... Petitioner

Versus

Parveen Kumar and another

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gurmeet Singh, AAG, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. The application under Section 378 (3) Cr.P.C. for grant of leave against the judgment of acquittal dated 14.12.2016 passed by the Special Judge, Gurgaon is accompanied by an application for condonation of delay of 525 days.

2. Heard learned State counsel and perused the pleadings.

3. From the pleadings, it is forth coming that the non-applicants were acquitted vide judgment dated 14.12.2016. The District Attorney, Gurugram sent his opinion on 20.1.2017 to the office of State Vigilance Bureau, Gurugram that it is not a fit case for filing the appeal. Thereafter, on 7.3.2017, the Superintendent of Police, State Vigilance Bureau, Gurugram (for short 'the SP') found the case fit for filing the appeal and sent his comments to Inspector General, State Vigilance Bureau. The Deputy Inspector, Gurugram on 6.4.2017 sent the comments to the office of Director General, State Vigilance Bureau (H) Panchkula. On 9.8.2017 the file from the office of Director General, State Vigilance Bureau (H), Panchkula moved to the office of Chief Secretary, Government of

31.10.2017 to the office of Additional Chief Secretary, Government of Haryana. Ultimately, on 19.4.2018, the file was sent to the office of Advocate General, Haryana and the appeal/application was filed on 20.8.2018.

4. Learned State Counsel argues that the way State machinery works, it takes time to deal with the file and while complying with the procedure, the delay occurred.

5. 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.

6. 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.

7. 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.

8. No explanation has been put forth for explaining the delay in filing the application. The reason given is that the file moved at a leisure pace from one office to another. In spite of the fact that by April 2017, the comments of District Attorney and the SP with regard to the filing of the appeal were there but the appeal was filed on 20.8.2018. It would not be out of place to mention that in an appeal against acquittal with the passage of time the rights accruing to the accused/non-applicant get crystallized, the delay effects the rights of the other party.

9. In absence of any explanation worth acceptance for explaining the delay, 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

7th December, 2022

anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No