

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

**CRM-30607-2018 in/and
CRM-A-1800-MA-2018**

Date of Decision: 24th November, 2022

State of Haryana

... Applicant

Versus

Ramphal

... 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 3.6.2017 passed by the Additional Sessions Judge, Jind, is accompanied by an application for condonation of delay of 353 days.

Heard learned State counsel and perused the pleadings.

From the pleadings, it is forth coming that the non-applicant was acquitted vide judgment dated 3.6.2017. The opinion of the Deputy District Attorney and the District Attorney, office of Director General, State Vigilance Bureau, Haryana were received in August, 2017. The matter was sent to office of Advocate General Haryana on 16.04.2018 for filing the appeal. The application under Section 378 (3) Cr.P.C. was filed on 21.7.2018.

This court vide order dated 26.8.2019, granted an opportunity to the State to file a better affidavit, giving details of the action taken against the delinquent official who had not taken steps to file appeal within stipulated time.

In pursuance to order, affidavit dated 6.11.2019 of Bijender Singh, HPS, Deputy Superintendent of Police, State Vigilance Bureau, Hisar Range, Hisar was filed. The relevant paragraph No. 6 is quoted herein below :-

'That the delay in filing the present appeal as occurred due to procedural and administrative procedure which was occurred in the due course of taking the opinion from the office of Advocate General, Haryana and other authority in dealing with the case file.'

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. The reason given is that the file moved at a leisure pace.

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

24th November, 2022

anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No