

215 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-629-2018 in/and
CRM-A-25-MA-2018
Date of Decision: 1st September, 2022

State of Haryana ... Applicant

Versus

Kulbeer Singh ... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Gurmeet Singh, AAG, Haryana.

AVNEESH JHINGAN , J.(Oral)

This is an application for condonation of delay of 322 days in filing the appeal against acquittal/application seeking leave to Appeal against the judgment of acquittal dated 24.10.2016 passed by Additional Sessions Judge, Rewari (Judge, Special Court constituted under Corruption Act).

The reason pleaded in the application for condonation of delay is that District Attorney, Rewari had sent his comment on 13.12.2016. The matter was taken up in the office of Additional Chief Secretary, Haryana Administration of Justice and thereafter, directions were issued to Advocate General Office, Haryana on 14.9.2017 to prefer an appeal. After collecting the relevant documents, the appeal was filed.

Learned State Counsel submits that the delay has occurred in following the procedure for getting approval to file the appeal.

The Supreme Court in **Oriental Aroma Chemical Industries**

Etd. Vs. Gujarat Industrial Development Corporation and another,

2010 (5) SCC 459, held as under :-

“8. We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time. The expression "sufficient cause" employed in Section 5 of the Indian Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which sub serves the ends of justice. Although, no hard and fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate.”

(emphasized)

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 considered and in the absence of 'sufficient cause' delay shall not be condoned. In case of serious negligence, the delay should not be condoned.

In **P.K. Ramachandran v. State of Kerala & Anr., 1997 (4) R.C.R.(Civil) 242 : AIR 1998 SC 2276**, the Supreme Court while

considering a case of condonation of delay of 565 days, wherein no explanation much less a reasonable or satisfactory explanation for condonation of delay had been given, held :-

"Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds."

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*** 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.

Further, the Supreme Court in the judgment passed in *Special Leave Petition (Civil) Diary No. 13348 of 2019* titled as *State of Bihar vs. Deo Kumar Singh* in paragraphs No. 2 and 4 observed as under :-

“2. We are of the view that a clear signal has to sent to the Government Authorities that they cannot approach the Court as and when they please, on account of gross incompetence of their officers and that too without taking any action against the concerned officers. No detail of this delay of 728 days have been given as if there is an inherent right to seek condonation of delay by State Government. The law of limitation apparently does not apply to the State Government according to its conduct.

4. We strongly deprecate the casual manner in which the Division Bench was approached and also this Court has been approached; the objective possibly being to get a certificate of dismissal from this Court. This is complete wastage of judicial time and the petitioners must pay for the same.”

From the perusal of the application, it is forthcoming that the file remained pending in the office of the Additional Chief Secretary, Haryana Administration of Justice for almost nine months. This was in spite of the fact that the officials concerned were aware that there is limitation provided for filing the appeal.

The file was dealt with at a leisure pace. There is no explanation much less a reasonable explanation put forth explaining the period of nine months for taking a decision to prefer an appeal.

In absence of any reasonable explanation, no case is made out

For condoning the delay of 322 days, the application is dismissed.

Since application for condonation of delay is dismissed,
consequently, application for leave to appeal is also dismissed.

(AVNEESH JHINGAN)
JUDGE

1st September, 2022
anuradha

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No