

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

**CRM-29762 of 2021 in/and
CRM-A-223 of 2021 (O&M)**

DECIDED ON: 6th December, 2022

State of Haryana

.....APPLICANT

VERSUS

Vinod Kumar

.....RESPONDENT

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 18.1.2019 passed by the Additional Sessions Judge, Hisar, is accompanied by an application for condonation of delay of 358 days.
2. Heard learned State counsel and perused the pleadings.
3. From the pleadings, it is forth coming that the non-applicant was acquitted vide judgment dated 18.1.2019. On 18.2.2019 the District Attorney, Hisar gave his opinion that it is a fit case for filing of an appeal. The Vigilance Department on 10.4.2019 took a decision that appeal is to be field against acquittal, thereafter the appeal was filed on 9th July, 2020.
4. There is no explanation for the period of more than eleven months taken to file the appeal.
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 the delay in filing the appeal/application.

9. 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.

6th December, 2022
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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>