

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

**Criminal Revision No. 1381 of 2022 (O&M)**

**Date of Decision: 23<sup>rd</sup> December, 2022**

Surjit Kaur

Petitioner

Versus

State of Punjab and others

Respondents

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. Gurcharan Dass for the petitioner.  
Mr. Shiva Khurmi, Assistant Advocate General, Punjab.  
Ms. Kanika Ahuja and Mr. Edward Augustine George,  
Advocates for respondents No. 2 to 4.

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**AVNEESH JHINGAN, J (Oral):**

Aggrieved of judgement dated 2.2.2009 acquitting Pooja Sabharwal, Jiwan Asha and Deepak Kumar (hereinafter referred to as 'the respondents') in FIR No. 155 dated 7.6.2000, under Sections 120-B, 420, 467, 468, 471, 212, 216, 406 IPC and Section 8 of the Prevention of Corruption Act, registered at Police Station Kotwali, Kapurthala, criminal revision is filed which is accompanied by an application for condoning the delay of 4771 days.

The petitioner had earlier filed CRR No. 4411 of 2016 which was accompanied by an application for condoning delay of 2667 days. In that revision petition, the acquittal of the respondents was challenged and prayer was for enhancement of the sentence of Ashok Kumar Sabharwal and Sushma Bawa. On 13.5.2022, learned counsel for the petitioner restricted the prayer in revision to the quantum of sentence and sought

permission to file separate criminal revision against the acquittal of the respondents. The order dated 13.5.2022 is reproduced below:

*“The challenge in the revision petition is to the quantum of sentence awarded to respondents No. 2 and 4 as also to the acquittal of respondents No. 3, 5 and 6.*

*There is delay of 2667 days in filing the revision petition.*

*Learned counsel for the petitioner submits that in this petition he restricts the prayer with regard to the quantum of sentence and seeks permission to file a separate criminal revision, so far as grievance against acquittal of accused is concerned. He on instructions submits that needful would be done within fifteen days from today.*

*List on 30<sup>th</sup> May, 2022.”*

Heard learned counsel for the parties.

The only reason mentioned in the application for condonation of delay is that the petitioner is an old lady engaged in number of litigations and thus could not file the revision in time.

It would be appropriate to note at this stage that the earlier revision petition was filed after delay of more than seven years i.e. 2667 days.

Before proceeding further, it would be gainful to cite the following decisions:

In **P. K. Ramachandran v. State of Kerala and another,** 1997 (4) RCR (Civil) 242, 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 was given, held as under:

*“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.”*

In Balwant Singh (dead) v. Jagdish Singh and others, 2010(8) SCC 685, the Supreme Court held:

*“13. As held by this Court in the case of Mithailal Dalsangar Singh (supra), the abatement results in the denial of hearing on the merits of the case, the provision of abatement has to be construed strictly. On the other hand, the prayer for setting aside an abatement and the dismissal consequent upon an abatement, have to be construed liberally. We may state that even if the term ‘sufficient cause’ has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the concerned party. The purpose of introducing liberal construction normally is to introduce the concept of ‘reasonableness’ as it is understood in its general connotation. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise. These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right, as accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of*

*a valuable right that has accrued to it in law as a result of his acting vigilantly.”*

*[Emphasis supplied]*

The Supreme Court in ***Oriental Aroma Chemical Industries Ltd. 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.”*

*[Emphasis supplied]*

The Supreme Court in **Basawaraj and another v. Special Land Acquisition Officer, 2013(14) SCC 81** held as under:

*9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be*

*necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose."*

In Esha Bhattacharjee v. Managing Committee of

Raghunathpur Nafar Academy and others, 2013(12) SCC 649, the

Supreme Court held:

*"16. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are: -*

*a) An application for condonation of delay should be drafted with careful concern and not in a half hazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.*

*b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.*

*c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.*

*d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a non-challan manner requires to be curbed, of course, within legal parameters.”*

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.

The respondents were acquitted vide judgment dated 2.2.2009. The issue of their acquittal attained quietus thereafter. After seven years, CRR No. 4411 of 2016 was filed by the petitioner. No sufficient cause is pleaded for condoning the inordinate delay of more than seven years.

Law is well-settled that a strict view is to be taken while considering the condonation of inordinate delay. The delay cannot be condoned in a mechanical manner in absence of explanation worth acceptance.

The ground mentioned for condonation of delay that the petitioner is involved in number of litigations and thus could not file the revision in time cannot be sufficient cause for condoning inordinate delay. It cannot be lost sight that with the expiry of limitation, right crystallizes

in favour of other party (respondents in this case). No case is made out for giving genesis to the acquittal of the respondents which attained finality in the year 2009 itself.

The application for condonation of delay is dismissed.

Consequently, the revision petition is also dismissed.

[AVNEESH JHINGAN]  
JUDGE

23<sup>rd</sup> December, 2022  
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1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

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Yes / No