

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

238

CRM-M-45278-2018

Decided on 29.08.2022

Gursewak Singh

... Petitioner

VS.

State of Punjab

... Respondent

Coram: Hon'ble Mr. Justice Sandeep Moudgil

Present: Mr. PS Sekhon, Advocate for the petitioner

Mr. Shubham Kaushik, AAG Punjab

Sandeep Moudgil, J.

This petition under Section 482 CrPC has been filed by the petitioner seeking quashing of the order dated 27.02.2018 (Annexure P5) passed by learned Additional Sessions Judge, Sangrur in case FIR No.206 dated 24.12.2012 under Section 302/307/450/452/120-B/109/148/149 IPC and Sections 25/27/30/54/59 of Arms Act, 1959 registered at Police Station Dirba, District Sangrur and further to release the property of the petitioner.

Shorn of details, the brief facts of the case are that the petitioner was declared as Proclaimed Offender in the above-said FIR and as such an FIR No.44 dated 15.04.2015 under Section 174-A IPC was registered against the petitioner and his property measuring 90 kanals 6 marlas situated at village Aspal Khurd was attached by JMIC, Sunam vide order dated 13.02.2013 (Annexure P1). According to his counsel, the petitioner was regularly appearing before the Investigating Officer. The petitioner filed CRM-M-12415-2015 and this Court allowed the petitioner to surrender.

The trial court vide order dated 11.04.2018 while observing that the FIR No.44 dated 15.04.2015 has been wrongly registered against the

petitioner as he had already joined the investigation, acquitted the petitioner of the charges under Section 174A IPC vide judgment dated 11.04.2018 (Annexure P3).

The petitioner thereafter surrendered before the trial court and filed an application to release the attached property but the same was dismissed vide order dated 02.02.2016 (Annexure P2). Thereafter the petitioner filed appeal against the order dated 02.02.2016. The petitioner also moved an application under Section 5 of the Limitation Act for condonation of delay of 8 months 20 days in filing the appeal. The said application has been dismissed by the learned Additional Sessions Judge, Sangrur vide impugned order dated 27.02.2018 (Annexure P3) on the ground that the reasons put for by the petitioner in explaining the delay of 8 months and 20 days is not acceptable. Aggrieved, the petitioner has filed this revision petition.

Learned counsel for the petitioner contends that since the petitioner stands acquitted/exonerated and he has not been found to be proclaimed offender, the order attaching the property of the petitioner cannot be allowed to withstand. The delay, if any, in filing the appeal, in any way, is not attributable to the petitioner as the petitioner was not informed by the counsel before the lower court about the dismissal of the petition, on time.

I have heard learned counsel for the petitioner and gone through the record.

In my considered view, the learned appellate court is not right in rejecting the appeal of the petitioner for the reasons that the Hon'ble Supreme Court in **Poonam & Ors. vs. Harish Kumar & Anr. 2012(1) ACJ 001 (SC)** has held that the delay in such like cases can be condoned as law relating to

condonation of delay is very liberal. It also held that unless the delay is gross, explanation for the same should be liberally construed.

Looking the totality of the facts and circumstances of the case and the fact that the petitioner stands acquitted in FIR No.44 dated 15.04.2015 in pursuance to which property of the petitioner was attached, the order dated 27.02.2018 cannot sustain.

Accordingly, this petition is allowed and the order dated 27.02.2018 is quashed. It is directed that the property of the petitioner be released forthwith.

29.08.2022
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?	Yes/No
2. Whether reportable?	Yes/No