

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

**CRM-20661-2019 in/and
CRM-A-1335-2019
Date of decision: 25.08.2022**

State of Haryana

....Appellant(s)

Versus

Mohit @ Kaga and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Ms. Palika Monga, DAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

CRM-20661-2019 has been filed for condonation of delay of 725 days in filing the application for grant of leave to appeal against the judgment dated 18.01.2017 passed by the Additional Sessions Judge, Ambala in FIR No. 44 dated 30.01.2012 under Sections 148, 323, 307 read with Sections 149 IPC and Section 25 of the Arms Act, 1959, P.S. Ambala Cantt.

As per the averments made in the application, the Public Prosecutor had given his opinion that it is a fit case for filing an application for grant of leave to appeal against acquittal of four persons namely Mohit @ Kaga, Kuldeep @ Jaat, Harinder @ Billu and Prabhjeet Singh @ Rajji. The District Attorney, Ambala also agreed to the said opinion and sent the same to the Superintendent of Police Ambala on 07.02.2017. Communication was further sent on 27.02.2017 to the office of the Advocate General, Haryana that the appeal be filed, which was eventually done on 05.02.2018. The case was returned on the queries raised by the office of the

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High Court and perusal of the objections raised would go on to show that

there was an initial delay of 293 days. The case was then re-filed on 18.12.2018 and was again returned with objections and re-filed on 28.01.2019. The case was further returned with objections and re-filed on 24.05.2019. On account of the objections raised, the delay as such was then calculated as 713 days as per re-filing on 24.05.2019. The affidavit as such does not give any reason as to the inordinate delay in filing the application for grant of leave to appeal once the opinion had been obtained initially on 07.02.2017 and as to why appeal was not filed within a reasonable period of time till 11.01.2018, which has thus led to the inordinate delay.

In such circumstances, we are of the considered opinion that the delay is not as such that it can be overlooked and resultantly, keeping in view the law laid down by the Apex Court in ***Office of the Chief Post Master General and others vs. Living Media India Ltd. and another, (2012) 3 SCC 563*** wherein, it was held that the law of limitation binds everyone including the Government and in the absence of any proper explanation, the delay was not liable to be condoned, which was of 427 days. Relevant portion of the said judgment reads as under:-

“12. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically

merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

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.”

Accordingly, the application for condonation of delay of 725 days in filing the application for grant of leave to appeal as well as the main application both stand dismissed.

(G.S. SANDHAWALIA)
JUDGE

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(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No