

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

**CRM-23421-2019 in/and
CRM-A-1721-2019**

Date of Decision: 11th October, 2022

State of Haryana

... Applicant

Versus

Ashok Kumar

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Gurmeet Singh, AAG, Haryana.

AVNEESH JHINGAN , J.(Oral)

CRM-23421-2019

1. This is an application for condoning the delay of 835 days in filing the application under Section 378(3) Cr.P.C. against acquittal of Ashok Kumar (non-applicant) in case of FIR No. 216, dated 15th June, 2015, under Sections 7 and 13 of Prevention of Corruption Act, 1988 (for short 'the Act') and 384 of IPC.

2. The non-applicant faced trial under the Act and was acquitted vide judgment dated 9th January, 2017.

3. Learned State counsel submits that delay occurred in complying with procedure of filing the appeal/application.

4. From the perusal of the application, it is forthcoming that on 3rd February, 2017, District Attorney sent the certified copy alongwith his comments to Superintendent of Police, Mahendergarh. SP, Mahendergarh took five months for sending the relevant documents District Magistrate and thereafter the documents were sent to the office of Advocate General, Haryana on 28th July, 2017. The Law Officer gave an opinion, the same

filed in July, 2019.

5. There is no explanation put forth for delay of two years from 28th July, 2017 till filing of appeal.

6. 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.”

7. The Supreme Court in ***Office of the Chief Post Master General and others Vs. 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.”

8. 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 Government working lethargy.

9. In case of ***Amalendu Kumar Bera and others Versus The State of West Bengal 2013 (2) RCR (Civil) 534***, the Supreme Court has held that the delay in filing the appeal or revision cannot be mechanically condoned, in the absence of 'sufficient cause' for delay.

10. No explanation much less reasonable explanation has been put forth for condoning the delay. The delay cannot be condoned mechanically, especially keeping in view that the delay is of more than two years.

11. The application is dismissed. Consequently, the main application under Section 378(3) is dismissed being time barred.

(AVNEESH JHINGAN)
JUDGE

11th October, 2022
Parveen Sharma

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