

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

**CRM-27173-2018 in/and
CRM-A-1537-MA-2018**

Date of decision: 31st August, 2023

Manoj Kumar Yadav

...Applicant(s)

Versus

Shrichand

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. V.K. Gupta, Advocate for the applicant.

AVNEESH JHINGAN, J (Oral):

1. The application for grant of leave to appeal against judgment of acquittal dated 28th March, 2018 is accompanied by application for condoning the delay of 65 days in filing.

2. The brief facts are that the applicant filed a compliant under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act') Act on dishonoring of cheque amounting to ₹53,20,000/-. The accused was acquitted considering that the complainant was a bank employee and the cheque given for enhancing the loan facility availed by the accused from the Bank was misused.

3. In the application for condonation of delay, the reason mentioned is that applicant was seriously ill, admitted in hospital and could not supply necessary document to counsel. After recovery the application was filed and there is a delay.

4. It would be appropriate to note that there is no medical certificate or evidence attached with the application to substantiate the pleadings.

5. The Supreme Court decide in *Amalendu Kumar Bera and others versus The State of West Bengal 2013 (2) RCR (Civil) 534*, held that delay cannot be automatically condoned in the absence of explanation.

6. In absence of any supporting evidence no ground is made out for condoning the delay. The application for condoning of delay is dismissed, resultantly, the application for leave to appeal is dismissed as time barred.

[AVNEESH JHINGAN]
JUDGE

31st August, 2023
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |