

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-37224 of 2014 in/and
CRM-A-1866-MA-2014 (O&M)
Date of decision: 12th July, 2023

Sukhjinder Singh

...Applicant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Veneet Sharma, Advocate for the applicant.
Mr. H. S. Sitta, DAG, Punjab.
Ms. Rakhi Sharma, Advocate for respondent No. 2.

AVNEESH JHINGAN, J (Oral):

1. The application under Section 378(4) Cr.P.C. for grant of leave to appeal against acquittal of the accused is accompanied by an application for condoning the delay of 826 days in filing thereof.
2. Learned counsel for the applicant submits that the appeal filed by applicant on 18.10.2012 before the Sessions Court was dismissed on 31.10.2013 as not maintainable and thereafter the present application was filed.
3. Learned counsel appearing for respondent No. 2 opposes the condonation of delay and submits that after dismissal of appeal, there is delay of more than one year in filing application.
4. Heard learned counsel for the parties and perused the pleadings.
5. From perusal of the application for condonation of delay, it is forth coming that no explanation has been put forth for delay from 22.10.2013 to 14.11.2014 i.e. dismissal of appeal and filing of the present application.

6. There cannot be any quarrel on the proposition that the period during which the appeal remained pending before the Sessions Court, i.e. the court having no jurisdiction has to be excluded as per Section 14 of the Limitation Act, 1963.
7. It cannot be lost sight of that the accused were acquitted vide judgment dated 11.6.2012 and delay causes prejudice to the rights of affected party.
8. The Supreme Court in *Amalendu Kumar Bera and others Versus The State of West Bengal 2013 (2) RCR (Civil) 534*, held that the delay in filing the appeal or revision cannot and shall not be mechanically condoned in the absence of 'sufficient cause'. In case of serious negligence, the delay should not be condoned.
9. In the present case, there is no explanation put forth for delay of more than one year after dismissal of appeal. Consequently, the application for condonation of delay is dismissed.
10. Resultantly, the application for grant of leave to appeal is also dismissed.

12th July, 2023

mk

[AVNEESH JHINGAN]

JUDGE

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No