

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

**CRM-32272-2021 in/and
CRM-A-515-2021**

Date of Decision: 09th MAY, 2023

STATE OF U.T., CHANDIGARH

... APPLICANT/APPELLANT

VERSUS

LAKSH MOHAN @ LADDY

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Anil Kumar Lamdharia, Addl. Public Prosecutor
for the applicant/appellant

SANDEEP MOUDGIL, J

1. This appeal has been filed, along with an application under Section 5 of the Limitation Act seeking condonation of delay of 506 days in filing the appeal, against the judgment dated 18.09.2019, passed by Additional Sessions Judge, Chandigarh, vide which the respondent in FIR No.212, dated 17.07.2018, registered at Police Station Maulijagan, Chandigarh, under Section 21 of the NDPS Act, has been acquitted on the ground that the applicant/appellant has not been able to prove the case against the respondent beyond reasonable doubts.

2. Learned Addl. Public Prosecutor appearing for the applicant/state submits that the judgement passed by Additional Session Judge is totally wrong and illegal. It is asserted that the trial Court has failed to appreciate that the fatal recovery has not been effected in the presence of

the relevant prosecution witnesses. It is further asserted that immediately after the arrest of the accused he was produced before the Illaqa Magistrate, Chandigarh for certification of correctness of inventory. The accused cannot be scot free from the recovery, which was confiscated from him. The accused has miserably failed to show on record any document to establish that he was having the valid licence to carry the substance and the alleged recovery has been planted upon him. Accordingly, he prays that the present application be allowed.

3. Having heard learned counsel for the applicant/appellant at length and going through the case file, this Court is of the considered opinion that there is no illegality or infirmity in the judgment passed by the trial court.

4. The right of appeal against acquittal vested in the State Government should be used sparingly and with circumspection and it is to be made only in case of public importance or where there has been a miscarriage of justice of a very grave nature.

5. Law is well settled as held in case of ***Babu -Vrs.- State of Uttar Pradesh reported in A.I.R. 1983 Supreme Court 308*** that in appeal against acquittal, if two views are possible, the appellate Court should not interfere with the conclusions arrived at by the trial Court unless the conclusions are not possible. If the finding reached by the trial Judge cannot be said to be unreasonable, the appellate Court should not disturb it even if it were possible to reach a different conclusion on the basis of the material on the record because the trial Judge has the advantage of seeing and hearing the witnesses and the initial presumption of innocence in favour of the accused is not weakened by his acquittal. The appellate Court, therefore, should be slow in

disturbing the finding of fact of the trial Court and if two views are reasonably possible on the evidence on the record, it is not expected to interfere simply because it feels that it would have taken a different view if the case had been tried by it.

6. In case of *Bannareddy vs. State of Karnataka reported in (2018) 5 Supreme Court Cases 790*, it is held as follows:- “10....It is well settled principle of law that the High Court should not interfere in the well reasoned order of the trial court which has been arrived at after proper appreciation of the evidence. The High Court should give due regard to the findings and the conclusions reached by the trial court unless strong and compelling reasons exist in the evidence itself which can dislodge the findings itself.”

7. Thus, an order of acquittal should not be disturbed in appeal under section 378 of Cr.P.C. unless it is perverse or unreasonable. There must exist very strong and compelling reasons in order to interfere with the same. Findings of fact recorded by a Court can be held to be perverse, if the same have been arrived at by ignoring or excluding relevant materials on record or by taking into consideration irrelevant/inadmissible materials or if they are against the weight of evidence or if they suffer from the vice of irrationality.

8. It is to be borne in mind that the power given to the Court under Section 5 of the Limitation Act to condone the delay has to be exercised in the way in which judicial power and discretion ought to be exercised upon principles which are well understood and delay in filing an appeal ought not to be excused unless there are special circumstances. While dealing with an application under Section 5 of the Limitations Act, the Courts

are always influenced by the considerations whether the extensions of the period of the limitation is likely to affect the rights which have come to vest in the opposite party with a efflux of time. When the time for filing an appeal has once passed, a very valuable right stands accrued in favour of the other party.

9. As regards the delay in filing a criminal appeal, there is an important distinction between the State and the accused. No right can be said to vest in the State to have the conviction of an innocent person upheld; but a very clear right comes to vest in the accused/private person by efflux of time and he is entitled to claim that, save in exceptional circumstances delay in filing the appeal should not be condoned.

10. Keeping in view the discussions made hereinabove and backdrop of facts and circumstances, no ground, much less sufficient and cogent, has been made out by the applicant/appellant for the purpose of condonation of delay of 506 days in filing the appeal as well as on merits.

11. Dismissed.

11.05.2023
sham

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No