

237

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

CRR-1539-2017 (O&M)

DATE OF DECISION: 13.09.2023

Ishwar Singh**...Petitioner**

Versus

State of Haryana and others**...Respondents****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. S. S. Khurana, Advocate,
For the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

ARUN MONGA, J. (ORAL)

CRM-14052-2017

Ishwar Singh, the complainant, is aggrieved against acquittal of respondents No.2 to 6 in a case FIR No.150 dated 07.06.1999, registered under Sections 148, 341, 323, 324 read with Section 149 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Dharuhera, District Rewari. Under challenge is appellate court judgment dated 30.03.2016 passed by learned Additional Sessions Judge, Rewari, vide which judgment of conviction dated 25.02.2009 and order of sentence dated 26.02.2009 passed by learned Additional Chief Judicial Magistrate, Rewari, was set-aside and accused/respondents No.2 to 6 herein were acquitted of all the charges leveled against them.

2. However, there is a delay of 216 days in filing the accompanied revision petition to assail the aforesaid appellate court order. Hence the instant application under Section 5 of the Limitation Act, 1963 read with Section 482 Cr.P.C., seeking condonation of delay first. Reasons of delay pleaded in the application are as under:

“2. That the applicant/petitioner, after passing of impugned judgment, contacted the counsel in the Lower Court to receive the

record of both the courts but the clerk to the counsel of the applicant/petitioner in lower Court had misplaced it due to shifting of the office of the counsel in the lower court and found it only on 16.03.2017 and thereafter the petitioner after arranging the funds, contacted the present counsel for filing the present petition in this Hon'ble Court on 19.03.2017. That accordingly petition is being filed without any further delay, which is not intentional and deliberate."

3. To say the least, the reasons given in the application for condonation of delay do not inspire any confidence. Flimsy grounds have been taken to explain the delay. Even otherwise, it is a settled proposition of law that by virtue of limitation, certain rights vest with a litigant which cannot lightly taken away on unconvincing grounds, as have been stated herein in the application in hand seeking condonation of delay.

5. Not only the application has been filed in a mechanical manner, but even the mandate of law, which envisages each day's delay has to be explained, is completely amiss in the averments of the application.

6. Reference may be had to Apex Court judgment in **Ajit Singh Thakur Singh v. State of Gujarat**¹, wherein it is observed thus:

".....it is true that a party is entitled to wait until the last day of limitation for filing an appeal, but when it allows limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before limitation expired it was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute such sufficient cause. There may be events or circumstances subsequent to the expiry of limitation which may further delay the filing of the appeal, but that the limitations has been allowed to expire without the appeal being filed must be traced to a cause arising within the period of limitation. In the present case, there was no such cause, and the High Court erred in condoning the delay."

7. Reference may also be had to Apex Court judgment in **Ramlal and others Vs. Rewa Coalfields Ltd.**². Relevant extract of the same is reproduced hereinbelow:

"7. In construing Section 5 it is relevant to bear in mind two important considerations. The first consideration is that the expiration of the period of limitation prescribed for making an

¹AIR 1981 SC 733

SHALINI BHATIA²1962 AIR (SC) 361
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I attest to the accuracy and
integrity of this order/ judgment

appeal gives rise to a right in favour of decree holder to treat the decree as binding between the parties. In other words, when the period of limitation prescribed has expired the decree holder has obtained a benefit under the law of limitation to treat the decree as beyond challenge and this legal right which has accrued to the decree holder by lapse of time should not be light heartedly disturbed. The other consideration which cannot be ignored is that if sufficient cause for excusing delay is shown discretion is given to the Court to condone delay and admit the appeal. This discretion has been deliberately conferred on the Court in order that judicial power and discretion in that behalf should be exercised to advance substantial justice”.

8. Apart from the aforesaid, even on merits, I may hasten to add here that I have perused the appellate court judgment and, I am of the view *that same* is founded on cogent reasoning after appreciating the evidence on record in its right perspective. Findings rendered therein are based on a correct evaluation of the evidence and do not suffer from any flaws or illegality. Be that as it may, for the reasons mentioned in the forgoing part of instant order, no grounds to condone the delay are made out. I would refrain from going any further into merits of the revision petition. It would be in the interest of justice and equity to simply dismiss the revision petition on limitation.

9. Accordingly, application seeking condonation of delay of 216 days is dismissed. Since revision petition is not maintainable being barred by limitation, no ground to hear the same on merits is made out.

10. Pending application, if any, shall also stand disposed of.

SEPTEMBER 13, 2023
Shalini

(ARUN MONGA)
JUDGE

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