

CRR-252-2018 (O&M)

247

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-252-2018 (O&M)

Date of decision: July 12, 2023

Punjab State Civil Supplies Corporation Ltd.

....Petitioner

versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Harish Mehla, Advocate for
Mr. Athar Ahmed, Advocate for petitioner.

ARUN MONGA, J. (ORAL)

Present criminal revision petition has been filed for setting aside impugned judgment/ order dated 05.11.2015 passed by learned Additional Sessions Judge, Ferozepur whereby appeal preferred by petitioner-Corporation against judgment/ order dated 05.08.2010 passed by learned Additional Chief Judicial Magistrate, Ferozepur acquitting respondents No.2 and 3 in case FIR No.66 dated 26.07.2001, registered under Sections 406, 420, 120-B of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Guruharsahai, was dismissed.

2. Learned counsel appearing on behalf of petitioner/complainant states that certified copy of impugned order dated 05.11.2015 was prepared on 03.12.2015 and delivered on 07.12.2015. The said certified copy was supplied by the District Manager, on 04.01.2016. However, photocopy of brief of counsel below got misplaced which was supplied again only on 03.04.2016. He submits that subsequently, after obtaining legal opinion, the Department decided to file present revision. Case was marked to him on 22.09.2016 by the petitioner-Department and certified copies of impugned order were later on obtained from the District Management and which were delivered to him on 23.02.2017. He further

CRR-252-2018 (O&M)

submits that lower court record was obtained from the counsel engaged in the complaint case and same was delivered to him on 27.02.2017. He would urge that inadvertently, brief was again misplaced in the office and paper book along with lower court record was reconstructed on 07.03.2017. Appeal was filed on 07.04.2017 against impugned orders. On 28.04.2017, objections were raised by the Registry of this Court and same were complied with and re-filed on 01.06.2017. Subsequently, again objections were raised on 04.07.2017 and after duly complying with the same, it was again filed on 08.08.2017. Further objections were raised on 16.08.2017 and after complying with the same, appeal was refiled on 17.08.2017. Yet again, further objections were raised on 04.09.2017 to the effect that a criminal revision would lie before this Court instead of appeal. Instant criminal revision was thereafter drafted and the same was filed. Hence, a delay of 678 days has occurred. He contends that delay is neither intentional nor deliberate but due to the reasons beyond the control and, therefore, the delay may be condoned.

2.1. Learned counsel would further contend on merits that both the Courts below erred in law and facts and thus wrongly acquitted respondents No.2 and 3/accused, notwithstanding that there was sufficient evidence to prove their guilt. Entrustment of paddy was made to the respondent firm in pursuance of the agreement executed between the complainant and M/s. Jai Durga Rice Mills, Guruharsahai and as such, respondents No.2 and 3, being partners, were liable on account of their criminal liability under Section 406 IPC.

3. I have heard learned counsel for the petitioner and perused the record.

4. There is a colossal delay of 678 days in filing the present revision petition against the impugned judgment/order dated 05.11.2015 passed by learned First Appellate Court. The lackadaisical attitude of the petitioner/complainant in filing revision petition after raising objections by Registry of this Court seems

CRR-252-2018 (O&M)

unusual. The matter remained pending with the counsel for such a long period and thereafter suddenly one fine day, they woke up from their deep slumber and found that revision was not followed up.

5. To justify the delay, learned counsel has taken a feeble plea of brief having been misplaced twice over and further filing of appeal instead of revision happened inadvertently. Be that as it may, in my opinion, delay of 678 days cannot be countenanced mechanically and in a routine manner.

6. The Court must consider whether there is a genuine reason or not before delay is condoned. Enormous delay is to be construed as acquiescence and thus an uncondonable act. In the present case, the judgment/ order was passed by learned trial Court in the year-2010 and even first appeal was dismissed in the year-2015 and at first instance, second appeal was filed in the year-2017. Thereafter, on valid objections raised by the Registry of this Court, instant revision petition was filed on or around 07.12.2017, even though final objection was made on 04.09.2018 by the Registry that criminal revision would lie. No satisfactory explanation is coming forth as to why petitioner-Corporation took another three months to file the instant revision, which was already over-delayed. The delay is huge and reasons are neither candid nor convincing. If a litigant does not pursue his remedy vigilantly and promptly, Court cannot come to its rescue. There is no point in keeping the instant matter pending for an unspecified period, given that already 13 years have elapsed from the date of passing of judgment by learned Trial Court. The Sword of Damocles cannot be kept hanging over the heads of respondents No.2 and 3 just because complainant is a State instrumentality.

7. Reference may also be had to a judgment of the Supreme Court in the case of **Office of the Chief Post Master General & others v. Living Media**

CRR-252-2018 (O&M)

India Ltd. & another¹, wherein it was held that in an appeal filed on behalf of the State or its instrumentalities, unless a reasonable and acceptable explanation for the delay is given and there was *bonafide* effort on the part of appellants, the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process, is not to be accepted.

8. Mechanical reasons have been given for delaying the matter for 678 days and same cannot be taken lightly. I am not inclined to interfere. In any case, from the factual narrative given in the grounds of revision, it appears that it is a civil dispute, which is being given colour of criminal offence. Be that as it may, since revision is being dismissed on the grounds of delay, this Court would refrain to express any opinion on merits of the case.

9. Under these circumstances, I am of the view that petitioner/ complainant has not provided any substantial reasons for the purpose of condoning the colossal delay of 678 days in filing the revision and same is liable to be dismissed on the ground of delay.

10. In the light of above discussion, application for condonation of delay stands dismissed. Since delay in filing the revision has not been condoned, the revision petition is also dismissed being barred by limitation.

11. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 12, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No