

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

**CRM-28805-2021 in/and  
CRM-A-149-2021 (O&M)  
Date of Decision: 16<sup>th</sup> MAY, 2023  
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**RAJINDER SINGH**

**... APPLICANT/APPELLANT**

**VERSUS**

**TEJVIR SINGH AND ANOTHER**

**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Kulwinder Singh, Advocate for  
Ms. Srishti Shukla, Advocate  
for the applicant/appellant

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**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 568 days in filing the appeal, against the judgment dated 24.08.2018 passed by Judicial Magistrate Ist Class, Nabha vide which the complaint filed by the applicant/appellant under Sections 323, 307, 341, 379, 380, 506, 447, 427, 499, 500, 34, 182 and 211 IPC and Section 25 of Arms Act has been dismissed and the respondents have been acquitted on the ground that the applicant/appellant has not been able to prove his case against the respondents beyond reasonable doubts.

2. Learned counsel for the applicant/appellant has contended that the copy of the judgment was supplied to him on 05.09.2018 and he was

under the impression that no remedy is available against the impugned judgment. It is further contended that during the said period, the applicant/appellant was advised for bed rest many times, as he was suffering from diabetes and heart disease. Thereafter, the applicant/appellant took the brief from his counsel from the trial Court and approached to Ms. Srishti Shukla, Advocate in this Court in the month of March, 2020 where he came to know that remedy of appeal against acquittal is available to him. Accordingly, delay of 568 days in filing the present appeal has occurred.

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 reasons given for delay are not sufficient cause in itself and neither the explanation for the same is inspiring confidence of this Court as well, which are totally vague unambiguous and an afterthought. Though, a valiant attempt has been made on behalf of the applicant-appellant to seek indulgence of this Court, but the application for seeking condonation of delay in itself is silent about any specific date as to after getting the certified copy of judgment on 05.09.2018 till March, 2020 when he contacted his counsel neither any medical evidence has been placed on record in support of averment with regard to his suffering nor the specific period of such ailment has been pleaded, which raises doubt on the conduct of applicant-appellant to the mind of this Court.

5. Further reliance can be placed upon in the case of ***Mahant Bikram Dass Chela versus Financial Commissioner, Revenue, Punjab,***

*Chandigarh And Others” (1977) 4 SCC 69*, wherein it has been held as under:-

“21. Section 5 of the Limitation Act is a hard task-master and judicial interpretation has encased it within a narrow compass. A large measure of case-law has grown around Section 5, its highlights being that one ought not easily to take away a right which has accrued to a party by lapse of time and that therefore a litigant who is not vigilant about his rights must explain every day’s delay. These and similar considerations which influence the decision of Section 5 applications are out of place in cases where the appeal itself is preferred within the period of limitation but there is an irregularity in presenting it. Thus, in the instant case, there was no occasion to invoke the provisions of Section 5, Limitation Act, or of Rule 4, Chapter I of the High Court Rules. If the Division Bench were aware that Rule 3 of Chapter 2-C is directory, it would have treated the appeal as having been filed within the period of limitation, rendering it inapposite to consider whether the delay caused in filing the appeal could be condoned.”

6. Also, the Apex Court in “*Basawaraj and Another versus Special Land Acquisition Officer*”, (2013) 14 SCC 81, while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

“15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation,

the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

7. 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.

8. 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.

9. In view of 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 568 days in filing the appeal as well as on merits.

10. Dismissed.

16.05.2023  
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(Sandeep Moudgil)  
Judge

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

Yes/No  
Yes/No