

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

CRM-31614-2019 IN/AND

CRR-2662-2019

Date of Decision:22.11.2023

State of Haryana

...Petitioner

vs.

Amrik Gir and Anr.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

N.S.Shekhawat J. (Oral)

CRM-31614-2019

An application under Section 5 of Limitation Act for condonation of delay of 122 days in filing the present revision petition.

Despite service, there is no representation on behalf of the respondents.

For the reasons mentioned in the application, the minimal delay of 122 days in filing the present appeal is condoned.

Main case

As per the office report, respondent No.1 has been served through brother, notice issued to respondent No.2 has been received back unserved with the report that she was living in Canada. Since, the present order shall not cause any prejudice to the respondents, there is no need to serve the respondents at this stage. However, liberty is given to respondents that in case there is concealment on the part of the petitioner, the respondents would be entitled to

make any application for revival of the present petition.

The petitioner has filed the present petition against the impugned order dated 25.02.2019, passed by the Court of SDJM, Pehowa, whereby the application moved by the complainant to seek permanent exemption from personal appearance during trial was ordered to be dismissed.

Learned State counsel submits that the complainant in the present case is a public servant. Dr.Sukhvir Singh Mahla, one of the complainant has been appointed as Chairman, District Appropriate Authority under Section 17 (2) of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection)Act, 1994, vide the Gazette Notification dated 04.03.2009 and the complaint has filed through him. He is also posted as Civil Surgeon, District Kurukshetra. Learned State counsel further contends that the complainant in the present case is a public servant and has to perform other official duties also. Apart from his administrative control over the health services, he has to perform his emergency duties, being Civil Surgeon Kurukshetra. He is a qualified doctor and is unable to appear before the Trial Court on each and every date of hearing. Learned State counsel further submits that the complainant is represented by a counsel before the Trial Court and he has no objection in case, the proceedings are conducted before the trial Court in absence of the complainant and he may be permitted to represented by his counsel.

I have heard the learned State counsel and perused the record.

I find sufficient force in the submissions made by learned State counsel. The complaint has been filed by the Chairman, District Appropriate Authority, Kurukshetra, who is also the Civil Surgeon, District Kurukshetra. It

is true that apart from controlling of health services in the district, he has to perform his duties as a doctor also and it would be inappropriate to insist his presence before the Trial Court on each and every date of hearing.

Consequently, the complainant is granted permanent exemption from appearance before the Trial Court; however, he is directed to file an affidavit before the Trial Court that he has no objection, in case, the proceedings before the Court are held in his absence and the presence of his counsel would be sufficient for the purposes of trial. Apart from that, the Trial Court may insist the presence of the complainant as and when the Court feels it appropriate to call him personally. The Trial Court shall be at liberty to impose any other conditions, which it may deem thinks fit and proper in the facts and circumstances of the present case.

The petition stands allowed in the above terms.

22.11.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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