

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-470-LPA-2023,
CM-471-LPA-2023 and
CM-472-LPA-2023 in/and
LPA-157-2023

Date of Decision: 16.03.2023

Kavita and another

.....Appellants

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Aakash Juneja, Advocate,
for the applicants-appellant.

G.S.SANDHAWALIA, J. (ORAL)

CM-470-LPA-2023

Application for leave to filing the present application/petition
without Number of Roll of Advocate, is allowed, as prayed for.

CM stands disposed of.

CM-472-LPA-2023

By this application, the applicant-appellant seeks condonation
of delay of 64 days in re-filing the appeal.

In view of the averments made in the application, which is
duly supported by an affidavit of the counsel for the appellant, the
application is allowed and the delay of 64 days in re-filing the appeal is
hereby condoned.

CM-471-LPA-2023

By this application, the applicant-appellant seeks condonation of delay of 1336 days in filing the appeal.

In view of the averments made in the application, which is duly supported by an affidavit of appellant No. 1, the application is allowed and the delay of 1336 days in filing the appeal is hereby condoned.

LPA-157-2023

1. Consideration in the present Letters Patent Appeal is to the order of the learned Single Judge, dated 29.01.2019, passed in CWP-9040 of 2017, titled **Kavita and others vs. State of Haryana and others**, whereby the learned Single Judge dismissed the writ petition which had been filed for directions to investigate the matter of custodial death of Narinder Kumar, who was the husband of writ petitioner No. 1. Apart from that, prayer was also made to take the criminal, as well as departmental action against the police officials responsible for the loss of life of the husband of writ petitioner No. 1 and also for payment of compensation to the family members to the tune of ₹50,00,000/- as the jail authorities and the police officials had allegedly failed to protect the life and liberty of the husband of writ petitioner No. 1.

2. The learned Single Judge noticed that the deceased (Narinder Kumar) had history of addiction of drugs and this fact has also been admitted by his mother in her statement recorded. An inquiry has also been conducted about the death of Narinder Kumar by the learned Judicial Magistrate Ist Class, Ambala. It was resultantly noticed that the death had taken place on account of the Cardio Pulmonary Arrest because of

Hypertrophy, Chronic Disease. The allegations that the deceased was tortured also did not find any corroboration from the post-mortem report, which also did not reflect any external injuries whatsoever and therefore the writ petition was dismissed.

3. It is also to be noticed that the deceased was arrested on 27.04.2016 and produced in Court on 28.04.2016 and was given police remand for 02 days. Thereafter, he was again produced on 30.04.2016 and sent to judicial custody for 14 days. The police remand as such was expired on 30.04.2016. However, while he was in judicial custody, he was referred to the Civil Hospital, Ambala City on 04.05.2016 and has expired on 14.05.2016 while undergoing treatment in the said hospital. Thus, the arguments which have been raised that he was tortured to death, in our considered opinion, has been rightly repelled.

4. It is however to be noticed that a plea was taken by the State that the remedy was to file a suit for damages and to avoid affixing of court fee, the present petition has been filed. Counsel had also apprised the Court that the appellants may be relegated to their alternative remedy since admittedly their family member (Narinder Kumar) has died while in judicial custody.

5. Notice of motion.

6. On the asking of the Court, Mr. Ankur Mittal, Addl, A.G., Haryana, with Mr. Saurabh Mago, A.A.G., Haryana, accepts notice on behalf of the respondents-State.

7. We are also of the considered opinion that there are specific

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instructions also to provide monetary benefits in case of death during judicial custody, if the appellants can bring their case in the ambit of those instructions, it is open to them to seek their alternative remedy for the claim for damages before an appropriate Forum.

8.
- Disposed of with the aforesaid liberty to approach the appropriate Forum in case they so desire.
9.
- Needless to say that any observations made hereinabove or by the learned Single Judge would not effect the said authorities for proceedings on merits in case the appellants are able to bring their case within the ambit of those instructions.

(G.S. SANDHAWALIA)

JUDGE

March 16, 2023
nitin

(HARPREET KAUR JEEWAN)

JUDGE

Whether Speaking	Yes
Whether Reportable	No