

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

274

CRM-M-4532-2022
Date of decision:- 13.03.2024

Om Parkash

...Petitioner

Versus

Satbir Singh Kundu and anr.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Tanmoy Gupta, Advocate
for the petitioner.

Mr. Manoj Sood, Advocate
for the respondents.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of the order dated 20.11.2020 passed by CJM, Palwal which stands affirmed by the Revisional Court vide order dated 29.10.2021. Petitioner filed complaint under Section 138 of the Negotiable Instruments Act accompanied by an application seeking condonation of delay as the filing of the complaint was delayed by 4 months. In order of explain the delay, the petitioner relied upon medical condition of his mother and in order to demonstrate the same relied upon medical record showing that in the relevant period she underwent many medical tests including ultrasound, blood tests, ECG etc. Both the Courts below found that though the petitioner has been able to prove that her mother was suffering from ailment in the relevant period but still has not

been able to explain the delay.

2. Moreso, when it is not the case of the petitioner that his mother was indoor patient for any period of time.

3. Counsel for the petitioner while assailing the impugned orders contends that once it was proved on record that the mother of the petitioner was suffering from ailment, petitioner had made out sufficient ground for condoning the delay and the Courts ought to have been more liberal in considering the same in the background of the fact that the petitioner himself is a disabled person.

4. Per Contra, counsel for the respondents, submits that both the Courts below have rightly considered the plea raised by the petitioner and have passed well-reasoned order holding that the cause pleaded was not sufficient to condone the delay and there is no reason for this Court to exercise jurisdiction under Section 482 Cr.P.C. to interfere.

5. Having heard the regular contentions of the parties and having going through the records of the case, this Court finds that as per settled law, delay in filing complaint can be condoned after amendment in the provision under proviso to Section 142(b) of the Negotiable Instruments Act. Reliance can be placed upon in “**Pawan Kumar Ralli Vs. Maninder Singh Narula**” 2014 (15) SCC 245, wherein it has held as under:-

“Proviso appended to clause (b) of Section 142 of the Act was inserted by the Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002 and the legislative intent was, no doubt, in order to overcome the technicality

of limitation period. The Statement of Objects and Reasons appended to the Amendment Bill, discretion to the Court to take cognizance of offence even after expiry of the period of limitation [see MSR Leathers v.S. Palaniappan, 2012(4) RCR (Civil)485 : 2012(4) Recent Apex Judgements (R.A.J) 608 : (2013)1 SCC 177]. Only with a view to obviate the difficulties on the part of the Complainant, Parliament inserted the proviso to clause (b) of Section 142 of the Act in the year 2002. It confers a jurisdiction upon the Court to condone the delay [See Subodh S. Salaskar v. Jayparkash M. Shah, 2008(3) RCR (Criminal) 875 : 2008 (3) RCR (Civil) 904 : 2008 (4) Recent Apex Court Judgments (R.A.J) 654 : (2008) 13 SCC 689].”

But the delay has to be explained and the applicant is required to make out sufficient cause to seek condonation of delay.

6. In the present case, though the petitioner has been able to prove the ailment of his mother but could not explain that it was a sufficient cause calling for condonation of delay. Onus laid heavily upon him.

7. Keeping in view the aforesaid settled proposition of law, this Court does not find any reason to interfere in the orders passed by the courts below.

8. Accordingly, the present petition stands dismissed.

(PANKAJ JAIN)
JUDGE

13.03.2024
spn

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No