

CRR(F)-132-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-4045-2023 in/&
CRR(F)-132-2023 (O&M)

Date of decision: 05.03.2024

Pritam Singh

....Petitioner

V/s

Rajinder Kaur

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Pankaj Garg, Advocate for the applicant-petitioner.

SUMEET GOEL, J. (Oral)

CRM-4045-2023

1. The present application has been filed on behalf of the applicant-husband for condonation of 162 days delay in filing the accompanying revision petition. The main revision petition has been filed impugning the judgment dated 17.05.2022 passed by learned Principal Judge, Family Court, Fazilka whereby the applicant-petitioner (herein) was directed to pay Rs.2,500/- per month to respondent (herein)-wife as interim maintenance from the date of filing of the said application before the Family Court.

2. Learned counsel for the applicant-petition, while seeking grant of prayer for condonation of delay of 162 days, has argued that the delay is neither intentional nor deliberate and the same has occurred on account of applicant-petitioner not having the knowledge regarding the technicalities of law. Learned counsel for the applicant-petitioner, has further argued that in

case the delay is not condoned then the applicant-petitioner shall suffer irreparable loss. Thus, condonation of delay is prayed for.

3. I have heard learned counsel for the applicant-petitioner and have perused the paper-book.

4. It would be opposite to refer herein to a judgment of this Court passed in **CRR(F)-1844-2023** titled as **Deepak vs. Noori and another**, decided on 29.02.2024; relevant whereof reads as under:-

“8. As a sequel to above-said discussion, the following principles of law emerge:

(I) A liberal approach, undoubtedly, ought to be accorded to a plea for condonation of delay made under Section 5 of The Limitation Act, 1963 so as to further the cause of substantial justice. The concept of substantial justice essentially includes in itself the desirability of adjudication of a claim of the litigant on merits thereof rather than rejection of the same, at the threshold, on account of being barred by limitation. However, adoption of such liberal approach cannot be stretched to mean that a prayer (for condonation of delay) ought to be granted sans reasonable explanation therefor. An applicant (seeking condonation of delay) has to bring forward cogent, credible and lucid reason(s) to substantiate such a plea. In case such reason(s) is not scrutable, a Court would well be within its discretion to decline such plea (for condonation of delay). In other words, inexplicable delay ought not to be condoned.

(II) A Court ought to grant an application seeking condonation of delay when no negligence, inaction or want of bona fide is imputable to such applicant and/or such delay has occurred on account of circumstances beyond reasonable control of such applicant.

(III) It is not the length of delay (sought to be condoned) but explanation thereof which is relevant for consideration by a Court.

(IV) Law of limitation does not require an applicant (seeking condonation of delay) to furnish an exhaustive explanation on ‘day to-day basis’ for such delay. A Court while dealing with a plea for condonation of delay need not undertake such a pedantic approach.

(V) In appropriate cases, a Court may consider imposing costs while granting an application for condonation of delay. However, the quantification

of costs so imposed, must reflect the same being commensurate to the lis in issue as also attending circumstances therein.

(VI) The factum; of non-applicant(s) or even strangers having altered their position(s) relying upon the applicant not having filed an appeal/revision etc. within stipulated time and resultant effects thereof; will indubitably be a pertinent factor for consideration of a plea for condonation of delay.

(VII) A plea for condonation of delay by the State as also its instrumentalities has to be accorded a more liberal approach since the machinery involved in their working is impersonal in nature & hidden factors working therein cannot be given a complete amiss.

(VIII) The discretion of a Court, while considering a plea for condonation of delay, will be exercised in view of peculiar facts/circumstances of an individual case. It is neither prudent nor feasible to fix any exhaustive guidelines for exercising such judicial discretion. On the contrary, it would be perilous to lay down such general criteria for governing such discretion. Needless to emphasize that exercise of such judicial discretion/power ought to be within the four corners of well settled principles of justice, good conscience and fair play.

5. Condonation of delay of 162 days in filing the accompanying revision petition is sought for on the following averments:

1. That the applicant/petitioner is filing the accompanying revision petition in this Hon'ble Court which is most likely to succeed on the grounds mentioned therein and the same may be read as part and parcel of the instant application.

2. That the delay of 162 days is neither intentional nor deliberate but it has been attributed as the petitioner is not having the knowledge regarding the technicalities of law and thus, he could not able to approach the undersigned counsel to file the present revision petition within limitation period. In case, the delay is not condoned then the applicant/petitioner may suffer irreparable loss and injury and the very purpose of filing the instant petition would be frustrated.

3. That the applicant/petitioner has good prima facie case and balance of convenience also lies in his favour.”

6. A perusal of the above-said averments clearly show that no reasonable or plausible explanation has been furnished by the applicant (herein) to condone the delay of 162 days in filing the accompanying revision petition. This application, apart from bereft of any specific details/particulars which may reflect *bona fide* on part of the applicant in pursuing his case, rather reflects a deliberate attempt on part of the applicant-husband to somehow delay the proceedings and avoid the payment of interim maintenance to the husband-wife. No cause much less sufficient cause, as required in law, has been shown to condone the delay of 162 days in filing the accompanying revision petition. The delay is both inordinate and inexplicable. Hence the application seeking condonation of delay of 162 days in filing the accompanying revision petition merits dismissal.

Decision

7. The application (CRM-4045-2023) seeking condonation of 162 days in filing the revision petition is dismissed. Since the application seeking condonation of delay has been dismissed, the main revision petition stands dismissed as well accordingly.

(SUMEET GOEL)
JUDGE

March 05, 2024
Ajay

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