

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-1236-2018 in/and CRM-A-115-MA-2018 &
CRM-2605-2018 in/and CRM-A-234-MA-2018

Date of Decision: 09.09.2024

PUNJAB URBAN PLANNING AND DEV AUTHORITY
LUDHIANA

.....PETITIONER

VERSUS

M/S VIKAS HOUSE BUILDING COMPANY PVT LTD

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Aman Sharma, Advocate
 for the applicant/appellant.

 Mr. Aayush Gupta, Advocate
 for the respondent.

SANDEEP MOUDGIL, J

1. This common order shall dispose off two appeals mentioned above as a common question of law is involved in both the appeals and the facts being taken from and order being passed in CRM-A-115-MA-2018, by treating the same as the main case.
2. Both the applications mentioned above have been filed under Section 5 of the Limitation Act for condonation of delay of 325 days in filing the appeals.

3. Vide order dated 4th September, 2023, notice in the applications was issued.

4. Reply to the application(s) has been filed on behalf of the respondent No.1.

5. It is averred in the reply and also contended by the learned counsel for the respondent No.1 that the delay of 325 days in filing the appeal cannot be condoned because, as per the provisions of Section 378(4), the appeal against acquittal in the complaint case is to be filed within 60 days of the judgment as such delay being huge delay of 325 days cannot be condoned.

6. It is further contended on behalf of the respondent No.1 that the applicant has pleaded that the appeal was initially filed before the Court of Session and for this reason, delay has occurred. However, it is well settled law in the Full Bench judgement of this Hon'ble Court passed in "***M/s Tata Steel Company Versus M/s Atma Tube Products Limited 2013(2) RCR 1005,***" that in the complaint case, the appeal against acquittal lies before this Court within a period of 60 days and, as such, the applicant/appellant's plea of being ignorance of the judgment does not fit-in in their mouth. There is no other plea taken in the application as such the delay remains inordinate and unexplained also. The application, is thus, liable to be dismissed.

7. The learned counsel for the applicant chose to remain silent instead to counter the contention of the learned counsel for the respondent No.1 and submitted that the order dated 23.10.2017 passed by the learned Sessions Judge, Ludhiana, shows that the appeal was ignorantly filed before the Court of Session at Ludhiana. As such, this Hon'ble Court is fully

competent to condone the delay as the same is neither intentional nor deliberate.

8. Heard and case file perused.

9. Undoubtedly, it is a settled position of law that the appeal against the judgment of acquittal passed by a Magistrate, shall lie only before the High Court, therefore, the plea raised on behalf of the applicant/appellant cannot be accepted. Further following the principle of *legal maxim ignorantia juris non-excusate* i.e. ignorance of law is not excuse implies that court presumes that every party is aware of the law and hence cannot claim its ignorance as a defence to escape liability.

10. Further, The law of limitation is founded on public policy. It is enshrined in the legal maxim "*interest reipublicae ut sit finis litium*" i.e. it is for the general welfare that a period of limitation be put to litigation.

11. The court is of the considered view that when mandatory provision is not complied with and delay is not properly, satisfactorily and convincingly explained, it ought not to condone the delay on account of lethargic approach of the applicant.

12. Consequently, in view of the discussion made hereinabove along with the judgment M/s Tata Steel's case (supra) added with the fact that delay remains unexplained shows that the applicant/appellant was not vigilant enough to invite indulgence of the appropriate Forum/Court where the appeal lies, no discretionary relief can be granted unless sufficient cause for delay is shown. However, in the applications, seeking condonation of delay of 325 days in filing the appeal, the reasons/grounds taken therein do not inspire the confidence of this Court and accordingly, the prayer made in the

condonation of delay applications is declined and the applications, as well as the main appeals, are hereby ordered to be dismissed on account of delay.

13. Ordered accordingly.

09.09.2024
anuradha

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
:Yes/No