



111 IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-32298-2016 in/and
CRM-A-1880-MA-2016
Date of Decision: 10.07.2024

BHUPINDER SINGH

.....APPLICANT

VERSUS

ASHOK NAGPAL & ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Manu Loona, Advocate for the Applicant.

Mr. Harsh Neyol, Advocate for Respondents.

SANDEEP MOUDGIL, J.

CRM-32298-2016

1. The instant appeal has been filed along with the application under section 5 of the Limitation Act seeking condonation of delay of 885 days in filing the appeal, against the judgment dated 03.02.2014 passed by Additional Sessions Judge, Fazilka, whereby the respondent-accused have been convicted for an offence under sections 500, 511, 502, 506, 120-B IPC.

2. Having heard counsel for the applicant at length and going through the case file, this court is of the considered opinion that there is no illegality or infirmity in the judgment passed by the court below.

3. The counsel for the applicant has given no convincing explanation for the delay of 885 days in filing the instant appeal, and confines his argument to the fact that the delay has occurred by wrongly filing the appeal before



Additional Sessions Judge, Fazilka which was dismissed as withdrawn which led to the delay in filing the appeal which was neither intentional nor wilful.

4. It is to be borne in mind that the power given to the court under section 5 of the Limitation Act to condone the delay, has to be exercised in the way in which judicial power and discretion ought to be exercised upon principles which are well understood and delay in filing the appeal ought not to be excused unless there are special circumstances. While dealing with an application under section 5 of the Limitation Act, the courts are always influenced by the considerations whether the extensions of period of the limitation is likely to affect the rights which have come to vest in the opposite party with an efflux of time. When the time for filing an appeal has once passed, a very valuable right stands accrued in favour of the other party.

5. 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.

6. 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. On the perusal of the reasons recorded in the application as well as grounds of appeal, it is crystal clear that there have been a lack lustre approach of the applicant in pursuing the instant appeal that too against the orders which have been passed in a meticulous manner.

7. Thus, such an orders of prudent reasoning should not be disturbed in appeal unless it is perverse or unreasonable. There must exist very strong and compelling reasons in order to interfere with the same. Findings of fact



recorded by a court can held to be perverse, if the same has been arrived at by ignoring or excluding relevant materials on record or by taking into consideration irrelevant/inadmissible materials or if they are against the weight of evidence or if they suffer from the vice of irrationality.

8. Keeping in view the discussions made hereinabove and backdrop of facts and circumstances, no ground, cogent enough has been made out by the applicant for the purpose of condonation of delay of 885 days in filing the appeal.

9. Application stands Dismissed.

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10. In the view of the dismissal of the application for condonation of delay, the appeal is dismissed as such.

10.07.2024
Anuradha

(SANDEEP MOUDGIL)
JUDGE

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