



**CRM-41185-2024 in/and
CRM-A-764-MA-2017 (O&M)**

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-41185-2024 in/and
CRM-A-764-MA-2017 (O&M)
Date of Decision: 16.12.2024**

HARDEEP KAUR

.. Applicant

Vs.

NARINDER SINGH & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Naveen Bawa, Advocate for the applicant.

Ms. Ashu Rana, Advocate for the respondents.

...

SUMEET GOEL, J. (Oral)

CRM-41185-2024

1. Instant application has been filed for restoration of CRM-A-764-MA-2017 by recalling the order dated 08.07.2024.
2. Having heard the learned counsel for the parties and upon perusal of the record, this Court deems it appropriate to recall the order dated 08.07.2024 & restore the main case i.e. CRM-A-764-MA-2017 to its original status and number.
3. Ordered accordingly.
4. List the main case today itself i.e. 16.12.2024.

**CRM-13213-2017 in
CRM-A-764-MA-2017 (O&M)**

1. The present application has been filed on behalf of the applicant seeking condonation of delay of 313 days in filing the application seeking leave to appeal. Leave to appeal has been sought for by the



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applicant against the judgment dated 19.02.2016 passed by the Id. JMIC, Ludhiana, whereby a criminal complaint bearing No.COMI/10RBT74/2012 dated 12.05.2012 titled as '*Hardeep Kaur Vs. Narinder Singh & Others*', filed under Sections 406/498-A/506 of IPC against the respondents was dismissed in default.

2. Learned counsel appearing for the applicant, while seeking grant of prayer for condonation of delay of 313 days, has argued that the delay has occurred as initially the applicant was not aware that her complaint before the trial Court had been dismissed in default on 19.02.2016 due to non-appearance of both the parties. On 27.05.2016, she immediately filed an application for restoration of the complaint but the same was dismissed on 30.07.2016 being not maintainable. Thereafter, she filed the revision petition before the Id. Sessions Judge, Ludhiana but the same was also dismissed as withdrawn with liberty to challenge the impugned order in the appropriate Court on dated 27.02.2017. It has been argued that the afore-said circumstances of the case indicate that the delay in filing the application seeking leave to appeal is neither intentional nor deliberate & hence delay deserves to be condoned.

3. Learned counsel for the respondents submits that delay is enormous, no explanation has been furnished for condonation of such delay & hence the application seeking leave to appeal be dismissed.

4. I have heard learned counsel for the parties and have perused the paper-book.



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5. It would be apposite 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:

A liberal approach, undoubtedly, ought to be accorded to a plea for condonation of delay made under Section 5 of The Limitation Act, 1969 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."

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6. More recently, the Hon’ble Supreme Court in case titled as **‘State of Madhya Pradesh Vs. Ramkumar Choudhary’, Neutral Citation: 2024 INSC 932**, has observed as under:

“The legal position is that where a case has been presented in the Court beyond limitation, the petitioner has to explain the Court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the Court within limitation. In Majji Sannemma v. Reddy Sridevi, it was held by this Court that even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute. A reference was also made to the decision of this Court in Ajay Dabra v. Pyare Ram wherein, it was held as follows:

"13. This Court in the case of Basawaraj v. Special Land Acquisition Officer ((2013) 14 SCC 81] while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

"15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.

14. Therefore, we are of the considered opinion that the High Court did not commit any mistake in dismissing the delay condonation application of the present appellant."

Thus, it is crystal clear that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that, the expression 'sufficient cause' cannot be liberally interpreted, if negligence, inaction or lack of bona fides is attributed to the party."

7. Further, the Hon'ble Supreme Court in case titled as **Pathapati Subba Reddy (Died) by L.Rs & Ors. vs. The Special Deputy Collector (LA), Neutral Citation: 2024 INSC 286**, has observed as under:

"26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

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vii) *Merits of the case are not required to be considered in condoning the delay; and*

(viii) *Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision."*

8. Condonation of delay of 313 days in filing the application seeking leave to appeal is sought for on the following relevant averments:

"2. That the present complaint sent to Mediation Centre for compromise by Ld. Lower Court vide its order dated 16.11.2015. The appellant was appearing in the Mediation Centre on each & every date. Vide order dated 04.05.2016 of Mediation Centre the appellant was directed to appear before the Ld. Trial Court on 27.05.2016 as the compromise was not effected. When the appellant appeared before the Ld. Trial Court on 27.05.2016, then it came to the knowledge of the appellant that the complaint has already been dismissed in default on 19.02.2016 due to non- appearance of both the parties. Immediately, on dated 27.05.2016 the appellant filed the application for restoration of the complaint, in that application notice was issued and ultimately the application was dismissed on dated 30.07.2016 being not maintainable and as per the law the Court is not having jurisdiction to restore the case and remedy available to the appellant is to approach the Ld. Sessions Court in revision petition.

3. That thereafter, after getting the order from the Ld. Trial Court on dated 30.07.2016 the appellant filed the revision petition before the Ld. Sessions Judge, Ludhiana, in that revision notice was issued to the respondents and later on the revision petition was also dismissed as withdrawn with liberty to challenge the impugned order in the appropriate court on dated 27.02.2017.

4. That there is no fault on the part of the appellant. The delay in filing occurred due to reasons as stated above and the delay in filling the present criminal appeal is neither intentional nor deliberate."

9. 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 313 days in filing the application seeking leave to appeal. Moreover, the explanation given in the application does not inspire any confidence. Flimsy grounds have been taken to explain the delay. Perusal of the application would reveal that not only the application has been filed in a mechanical manner but even the mandate of law, which envisages each day's delay has to be explained, is completely amiss in the

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averments of the application. No worthwhile explanation has been given for the same. No cause much less sufficient cause, as required in law, has been shown to condone the delay of 313 days in filing the application seeking leave to appeal.

The delay is both inordinate and inexplicable. The explanation for the delay contained in the application seeking condonation of delay is wholly unsatisfactory and can hardly be said to be a reasonable, satisfactory or even a proper explanation for seeking condonation of delay. Hence the application seeking condonation of delay of 313 days in filing the application seeking leave to appeal merits dismissal.

Decision

10. The application (CRM-13213-2017) seeking condonation of delay of 313 days in filing the application seeking leave to appeal is dismissed. Since the application seeking condonation of delay has been dismissed, the application seeking leave to appeal stands dismissed as well accordingly.
11. Pending application(s), if any, shall also stand disposed off.

16.12.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No