



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-9717-2024 in/&
CRR(F)-312-2024 (O&M)

Date of decision: 23.09.2024

Urmila and others
Sandeep Kumar

V/s

....Applicant/Petitioners
....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ram Kumar Saini, Advocate for the applicant/petitioners.
Mr. Sumit Sangwan, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

CRM-9717-2024

1. The present application has been filed on behalf of the applicants, who are the wife and minor children of the respondent (herein), seeking condonation of delay of 346 days in filing the accompanying revision petition. The main revision petition has been filed impugning the judgment dated 19.12.2022 passed by learned Principal Judge, Family Court, Hisar, whereby the application under Section 127 of Cr.P.C. moved by the applicant-petitioners (herein) seeking enhancement of the maintenance allowance earlier granted under Section 125 of Cr.P.C. have been allowed and the respondent-husband (herein) was directed to pay the enhanced amount of compensation i.e. from Rs.15,000/- per month to Rs.21,000/- per month to the applicant-petitioners (herein) (i.e. Rs.7,000/- per month to each of the petitioners) from the date of filing of the petition till the date of order. It is further directed that in case respondent-husband defaults in payment *qua* arrears or future maintenance allowance, he shall be liable to pay an

additional sum of Rs.1,000/- to petitioners for every months default.



2. Learned counsel appearing for the applicant-petitioners, while seeking grant of prayer for condonation of delay of 346 days, has argued that the delay has occurred as after passing of the impugned judgment, the respondent-husband, with mala fide intentions, had manipulated the applicant-wife by making false assurances and inducing her to believe that the matter had been amicably resolved. The aforesaid act of deception by the respondent-husband was a calculated attempt to prevent the applicant-wife from taking timely legal action which resulted the delay in preferring the instant revision petition. It has been further argued that, on account of respondent's repeated acts of cruelty and violence, the applicant-wife suffered injuries in the head and hands and remain admitted in the hospital which makes it extremely difficult for the applicant-wife to take any legal steps within the stipulated time. Moreover, the applicant-wife, being unaware of the legal intricacies and trusting the respondent's initial promise to mend his ways, hoped for reconciliation. Furthermore, the applicant-wife, being a woman with limited resources, has financial instability has further compounded the delay in filing the present petition. Learned counsel for the applicants has further argued that the circumstances of the case indicate that the delay in filing the revision petition is neither intentional nor deliberate & hence delay deserves to be condoned.

3. Learned counsel for the respondent submits that delay is enormous; no explanation has been furnished for condonation of such delay & the delayed filing of the main petition is only aimed at somehow causing harassment to the respondent.



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

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:

- 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.”



6. More recently 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:
xxx xxx xxx xxx
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.”

7. Condonation of delay of 346 days in filing the accompanying revision petition is sought for on the following relevant averments:

- “2. That there is delay of 346 days in filing the accompanying petition and the delay occasioned because of the reason that after passing of above said judgment, the respondent cleverly compromised the matter with the petitioner No.1 and assured to keep the petitioners with him nicely and by giving false promise, he brought back the petitioners to his house and kept them for some time.
3. That after some time, the respondent again took up his old behaviour and started quarreling with the petitioner No.1 and on 08.07.2023, he gave beatings to her with lathi and danda, due to which she suffered injuries in the head and hands and she had to be admitted in the hospital and she remained under treatment for sufficient time. As per MLR, the petitioner No.1 had received total four injuries. Thereafter on the complaint of petitioner No.1, FIR No.204 dated 22.07.2023 u/s 323, 506 IPC was registered against respondent at P.S. Loharu (Bhiwani).
4. That after giving beating, the respondent had again shunted the petitioners out of his house. The petitioners were very much scared and also suffered financial constraints and could not approach this Hon'ble Court within limitation period. Now, after obtaining certified copy of the judgment, when the petitioner No.1 contacted the undersigned counsel then it came into knowledge there is delay in filing the accompanying petition.
5. That the delay in filing the accompanying petition is not intentional and the same occasioned due to reason mentioned above. Otherwise also the petitioners would not get anything in causing delay as



Id. Court below has given meagre enhancement in the maintenance amount.

6. *That in case the delay of 346 days in filing the accompanying petition is not condoned, then the petitioners shall suffer irreparable loss and injury.”*

8. A perusal of the above-said averments clearly show that no reasonable or plausible explanation has been furnished by the applicants (herein) to condone the delay of 346 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-petitioners in pursuing the case, rather demonstrates a clear lack of *bona fide* intent in pursuing the matter within the stipulated time frame. Furthermore, the delay cannot be excused merely on the grounds of general hardship without any substantial cause being shown. In the present case, the applicant-wife has failed to discharge her burden to explain the prolonged delay of 346 days. It is incumbent upon the applicant-wife to show that she was prevented by any sufficient cause from filing the petition within the limitation period. The absence of any cogent and convincing explanation leads to the inference that the applicant-wife was either grossly negligent or indifferent in pursuing her case. It is well settled law that mere inaction, negligence, or lack of diligence cannot be considered sufficient grounds to condone the delay. No cause much less sufficient cause, as required in law, has been shown to condone the delay of 346 days in filing the accompanying revision petition.

8.1 The delay is both inordinate and inexplicable. The law does not favour the indolent and it is trite law that a liberal approach towards



unexplained. 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.

9. In the facts and circumstances of the case as narrated hereinabove, the application seeking condonation of delay of 346 days in filing the accompanying revision petition merits dismissal.

Decision

10. The application (*CRM-9717-2024*) seeking condonation of delay of 346 days in filing the accompanying revision petition is dismissed. Since the application seeking condonation of delay has been dismissed, the main revision petition stands dismissed as well accordingly.

11. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

September 23, 2024
Ajay

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