

2024:PHHC:046011

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

116		CRM-13144-2024 in/& CRR-(F)-401-2024 (O&M) Date of decision: 04.04.2024
Umed Singh		Applicant-Petitioner
	V/s	
Roshni Devi		Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Naveen Siwach, Advocate for the applicant-petitioner.

SUMEET GOEL, J. (Oral)

CRM-13144-2024

1. The present application has been filed on behalf of the applicant-husband for condonation of 264 days delay in filing the accompanying revision petition. The main revision petition has been filed impugning the judgment dated 20.03.2023 passed by learned Principal Judge, Family Court, Fatehabad, whereby the applicant-petitioner (herein), who was proceeded against *ex-parte*, was directed to pay Rs.4,000/- per month to respondent (herein)-wife as interim maintenance from the date of filing of the said application i.e. 22.06.2020.
2. Learned counsel for the applicant-petition, while seeking grant of prayer for condonation of delay of 264 days, has argued that the delay has occurred as the applicant was suffering from kidney problem and was undergoing dialysis. On account of the aforementioned prolonged period of medical treatment, the applicant could not contact the counsel in time and the delay has occurred in filing the instant revision petition. It has been 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. I have heard learned counsel for the applicant-petitioner and have perused the paper-book.

4. 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.”

5. Condonation of delay of 264 days in filing the accompanying revision petition is sought for on the following relevant averments:

“2. That at the time filing the above mentioned revision petition, the petitioner was under the impression that the revision petition is within limitation, but later on it came to knowledge of the undersigned that there is delay of 264 days in filing the present revision.

3. That the petitioner is suffering kidney problem and dialysis are going on continuous medical treatment as and under per medical record already annexed with the main petition as Annexure P-2) and due to this ailments he could not approached the undersigned counsel for filing the revision petition within limitation. Now the petitioner is filing the present application for condonation of delay in the above mentioned revision petition.

4. That the delay in filing the revision petition is neither intentional nor deliberate, but due to the reasons mentioned above.”

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 264 days in filing the accompanying revision petition. Moreover, while going through the impugned order, it transpired that the petitioner-husband (herein) was not pursuing his case diligently. Initially he was proceeded against ex parte and on his filing application, the ex-parte order was set-aside, subject to payment of costs of

also directed to clear the payment of previous costs and in case he fails to comply with the aforesaid condition, the ex-parte order shall stand. On the next date of hearing i.e. 05.11.2022, since the petitioner-husband (herein) did not appear, he was ordered to be proceeded against the ex-parte.

Apart from the above, the instant 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 respondent-wife. No cause much less sufficient cause, as required in law, has been shown to condone the delay of 264 days in filing the accompanying revision petition. The delay is both inordinate and inexplicable. Hence the application seeking condonation of delay of 264 days in filing the accompanying revision petition merits dismissal.

Decision

7. The application (CRM-13144-2024) seeking condonation of 264 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.
8. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

April 04, 2024
Ajay

Whether speaking/reasoned:Yes/No

Whether reportable:Yes/No