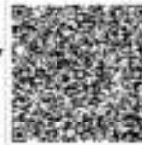


2024.PHHC:150567



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

254

**CRM- 31524 -2023 in/and CRM-A-1002-2023
DECIDED ON: 18.11.2024**

STATE OF HARYANA

.....APPLICANT/APPELLANT

VERSUS

GULAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Gagandeep Singh Chinna, AAG Haryana,
for Applicant/Appellant.

SANDEEP MOUDGIL, J

1. This appeal has been preferred by state, along with an application under Section 5 of the Limitation Act seeking condonation of delay of 100 days in filing the appeal, against the judgment dated 18.01.2023, passed by Additional District & Sessions Judge, Rohtak, whereby respondent in FIR No.278 dated 08.06.2017, under Section 323,341,379-B,506,120B R/W Section 34 IPC,1860 registered at Police Station Sampla, Rohtak ,wherein all the accused persons has been acquitted.

2. Learned Addl. Public Prosecutor appearing for the applicant/state submits that the appeal could not be filed within the time of limitation due to the performing of long official proceedings and formalities by the department. He further submits that the judgement passed by Additional Sessions Judge,

Rohtak is totally wrong and illegal. Accordingly, he prays that the present application be allowed.

3. Having heard learned counsel for the applicant/appellant 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 trial court.

4. Learned State counsel has given no convincing explanation and sufficient cause for condoning the delay of 100 days in filing the instant appeal, which according to state has occurred due to procedure adopted by the Government authorities especially the Department of Administration of Justice.

5. The view that the State Authorities if want to file any appeal against the order of the Court should approach within a reasonable time and not on their whims and fancies has been reiterated in the case of **State of Bihar & Others vs. Deo Kumar Singh & Others, SLP (Civil) Diary No.13348 of 2019, decided on 09.05.2019**, wherein it has been held that the Government Authorities cannot approach the Court as and when they please.

6. 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 an appeal ought not to be excused unless there are special circumstances. While dealing with an application under Section 5 of the Limitations Act, the Courts are always influenced by the considerations whether the extensions of the period of the limitation is likely to affect the rights which have come to vest in the opposite party with a 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.

7. The Apex court as far back in 1962 in the case of ***Ramlal, Motilal And Chhotelal vs. Rewa Coalfields Ltd A.I.R. 1962 SC 361*** has emphasized that even after sufficient cause has been shown by a party for not filing an appeal within time, the said party is not entitled to the condonation of delay as excusing the delay is the discretionary jurisdiction vested with the court. The court, despite establishment of a 'sufficient cause' for various reasons, may refuse to condone the delay depending upon the bona fides of the party.

8. Keeping in view the discussions made hereinabove and backdrop of facts and circumstances, no ground, much less sufficient and cogent, has been made out by the applicant/appellant for the purpose of condonation of delay of 100 days in filing the appeal.

9. In view of above the application seeking condonation of delay in filing the application seeking leave to appeal as well as leave to appeal stands dismissed.

18.11.2024
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(SANDEEP MOUDGIL)
JUDGE

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