



CRR(F)-1145-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-36274-2024 in/&
CRR(F)-1145-2024 (O&M)
Date of decision: 21.10.2024

Vijay Kumar

....Applicant-Petitioner

V/s

Neeru Bala

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Yaseen Sethi, Advocate for the applicant-petitioner.
None for the respondent.

SUMEET GOEL, J. (Oral)

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1. The present application has been filed on behalf of the applicant-husband seeking condonation of delay of 261 days in filing the accompanying revision petition. The main revision petition has been filed impugning the judgment dated 19.09.2023 passed by learned Principal Judge, Family Court, Gurdaspur, whereby the petition under Section 125 of Cr.P.C. for grant of interim maintenance allowance was allowed and the petitioner-husband (herein) was directed to pay Rs.8,000/- per month to the respondent-wife as interim maintenance allowance from the date of filing of the said application before the Family Court alongwith litigation expenses to the tune of Rs.3,000/-.
2. Learned counsel appearing for the applicant-petitioner, while seeking grant of prayer for condonation of delay of 261 days, has argued that the delay has occurred as the wife of the applicant-husband had already

challenged the impugned order before this Court and he was under the

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impression that he was not required to file a separate petition. Learned counsel has iterated that the applicant was unable to take immediate steps as it took time to gather all the necessary documents for the proper adjudication of the present petition. Moreover, the applicant was also unaware of the exact time frame for filing the instant revision petition. Learned counsel for the applicant-petitioner 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. Service of the instant petition was effected upon the respondent. However, none has caused appearance on her behalf.

4. I have heard learned counsel for the applicant 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 261 days in filing the accompanying revision petition is sought for on the following relevant averments:

“3. *That the delay in the filing is neither intentional nor willfull but due to the fact that petitioner was in the impression that this order has already been challenged by his wife before this Hon’ble Court and therefore he is not required to challenge the same by filing the separate petition before this Hon’ble Court and further it took time to procure all the documents which are necessary for the proper adjudication of the present petition and also the petitioner was not aware of the exact time period to file the present appeal.*

4. *That in view of the facts narrated above, delay of 261 days in filing the present petition has been occurred.*

5. *That the delay in filing the appeal is neither intentional nor wilful but has occurred due to bonafide reasons which were beyond the control of the petitioner.”*

8. A perusal of the above-said averments clearly show that no reasonable or plausible explanation has been furnished by the applicant-husband (herein) to condone the delay of 261 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 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 maintenance to the respondent-wife. The applicant-husband has failed to provide any concrete explanation or document to demonstrate his genuine efforts in pursuing the matter within the prescribed time limit. No



justify or condone the significant delay of 261 days in filing the accompanying revision petition. The delay is both inordinate and inexplicable. Merely attributing the delay to unforeseen circumstances, without any supporting details or evidence to substantiate these claims, does not meet the legal threshold for condonation. The applicant-husband has neither shown continuous interest in the case nor presented any exceptional or unavoidable circumstances that could explain such an extensive delay.

8.1 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. In the facts and circumstances of the case as narrated hereinabove, the application seeking condonation of delay of 261 days in filing the accompanying revision petition merits dismissal.

Decision

9. The application (CRM-36274-2024) seeking condonation of delay of 261 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.

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

(SUMEET GOEL)
JUDGE

October 21, 2024
Ajay