

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-2468-2023 in/and

CRR-2468-2023

Date of Decision: 05.07.2024

State of Punjab

.. Applicant/Petitioner

VS.

Avtar Singh

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Jaspal Singh Guru, AAG Punjab for the applicant

Ms. Kirandeep Kaur, Advocate for

Mr. Amardeep Singh, Advocate for respondent

Sandeep Moudgil, J.

(1). This is an application under Section 5 of the Limitation Act praying for condonation of delay of 471 days in filing the criminal revision petition which has been filed under Section 401 CrPC by the applicant/petitioner-State of Punjab, seeking to quash the judgment dated 10.05.2021 passed by Judge, Special Court, Amritsar vide which the bail application under Section 167(2) CrPC filed by the respondent was accepted as the petitioner-State did not file any application for extension of time to present the Challan before the expiry of statutory period of 180 days.

(2). In the application for condonation of delay of 471 days, it is averred that the office of District Attorney, Amritsar applied for certified copy of the impugned judgment on 10.05.2021 which was received on 13.05.2021 and as such, the limitation was available upto 06.08.2021 but the final approval from Department of Home Affairs & Justice (Judicial Branch-II), Govt. of Punjab was accorded on 23.05.2022 for filing the present revision petition excluding the time for drafting done by the Law Officer on 13.06.2022. It is further asserted that the

draft of the present application and affidavit could not be got prepared and vetted from the office of AG, Punjab as the concerned official/Incharge of Police Post Jaintipur Police Station Kathunangal, Amritsar (Rural) deputed for the said purpose, remained busy in investigation of number of other cases and thereafter, the case was vetted by the Law Officer on 05.06.2023 and ultimately the petition along with application for condonation of delay was filed in the Registry of the High Court on 13.09.2023.

(3). Before going into the merits of the case, first of all, it should be stated that in a case of this nature for condonation of delay, it is well settled that length of delay is not material, but the reasons stated thereof for condonation of delay. In other words, for condonation of delay, the reasons adduced must be properly pleaded, convincing, acceptable and cogent explanation should be offered for condonation of the delay in default thereof, the Courts could not exercise its discretion in the proper perspective to advance substantial justice.

(4). In **Ram Nath Sao @ Ram Sahu & Others versus Gobardhan Sao & Others, AIR 2002 SUPREME COURT 1201** the position has been succinctly set out in para 12 which reads as under:-

“12. ...Acceptance of explanation furnished should be the rule and refusal, an exception, more so when no negligence or inaction or want of bona fides can be imputed to the defaulting party. On the other hand, and while considering the matter the courts should not lose sight of the fact that by not taking steps within the time prescribed a valuable right has accrued to the other party which should not be lightly defeated by condoning delay in a routine-like manner....”

(5). Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter

rather acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable for want of acceptable explanation whereas in certain other cases, delay of a very long range are condoned when the Courts are satisfied with the just and fully explained reasons with no scope as to the credibility and bona fide of the applicant and once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion.

(6). In the present case, the petitioner-State has failed to give any explanation, much less justifiable, for the delay of 471 days in approaching this court against the order passed by the Special Court on 10.05.2021. The chain of events or to be precise the 'red-tape' attitude is writ large the way the prosecution has been conducting the matter right from the level of the trial court till the matter was ultimately filed before this Court on 13.09.2023. It is strange and rather astonishing that the order impugned herein was passed on 10.05.2021 and the limitation period of 90 days to file revision petition thereagainst was till 06.08.2021. The matter remained pending for approval by the State Government which was finally accorded on 23.05.2022 and even thereafter, it took more than a year and a half to finally approach this Court even after vetting by the Law Officer on 05.06.2023. The casual and lackadaisical approach of the State machinery in handling or conducting the court cases, not in this case individually but as a whole in other matters also, unfortunately result in rejection of even meritorious petitions. This Court is not inclined to let go with such bureaucratic officialdom.

(7). Even on merits also, it becomes worthwhile to note that the order impugned by the State of Punjab is against the grant of default bail to the petitioner under Section 167(2) CrPC as the prosecution failed to submit or seek extension within the time-frame set out under the statute i.e. within 180 days.

Before the trial court also, the prosecution proved its lethargy and red-tapism in not timely submitting the challan or even approaching the Court seeking extension to submit the final report. For the inaction on the part of the State Government, the respondent cannot be made to suffer.

(8). For the reasons mentioned above, the application seeking condonation of delay of 471 days in filing the revision petition is dismissed. Even on merits, the petitioner-State has failed to make any plausible ground for this Court to intervene and as such, the revision petition also stands dismissed on merit. Liberty is granted to the State Government to proceed against those Officers of the State Government as well as police officials found responsible right from issuance of copy of order before the trial court till the matter was filed before this Court.

(9). Ordered accordingly.

05.07.2024
V.Vishal

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No