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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-983-2019 in/and
CRM-A-100-2019 (O&M)
Date of Decision: 03.12.2024

State of Haryana

.. Applicant/Appellant

Vs.

Irfan

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Priyanka Sadar, AAG, Haryana.
None for the respondent.

...

SUMEET GOEL, J. (Oral)

1. The present application has been filed on behalf of the applicant-State seeking condonation of delay of 251 days in filing the application seeking leave to appeal. Leave to appeal has been sought for by the applicant against the judgment dated 12.01.2018 passed by the learned Addl. Sessions Judge (Exclusive Court for Heinous Crimes Against Women and Children), Yamuna Nagar at Jagadhri, whereby the respondent (herein) was acquitted of the charges framed against him.

2. Learned counsel appearing for the applicant-State, while seeking grant of prayer for condonation of delay of 251 days, has argued that after perusing the judgment dated 12.01.2018 passed in favour of the respondent, District Attorney, Yamuna Nagar had opined that it was a fit case to file an appeal against the acquittal of the respondent-accused before this Court. Subsequently, the District Magistrate, Yamuna Nagar requested the Advocate General, Haryana to file an appeal against acquittal.

Thereafter, the office of the Advocate General, Haryana directed the



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Superintendent of Police, Yamuna Nagar to file an application for condonation of delay in filing the appeal accompanied by an affidavit. Subsequently, SI Rishi Kumar was deputed to take the file on 04.12.2018 to manage the filing of the instant appeal, and he was occupied with another investigation on that date leading to procedural delay of 251 days. Learned counsel for the applicant-State has further argued that the delay was not due to any intentional negligence but was rather an unavoidable administrative and logistical delay. It has been iterated by the learned counsel that every effort has been made to ensure that all procedural steps were followed diligently on account of which delay of 251 days has caused and the same was purely circumstantial. It is thus submitted by the learned counsel that the circumstances of the case indicate that the delay in filing the application seeking leave to appeal is neither intentional nor deliberate & hence delay deserves to be condoned.

3. Pursuant to notice issued in the application for condonation of delay on 11.03.2019, respondent had caused appearance through learned counsel on 19.02.2020. Today, the case has been called out twice since morning. However, none has caused appearance on behalf of the respondent. The same was the position on 09.08.2024. In the interest of justice, this Court deems it fit to proceed further with the case.

4. I have heard learned counsel for the applicant and have perused the record with her assistance.

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:-



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"8. As a sequel to above-said discussion, the following principles of law emerge:

A liberal approach, undoubtedly, ought to be accorded to a plea for condonation of delay made under Section 5 of The Limitation Act, 1969 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:



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- 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 251 days in filing the application seeking leave to appeal is sought for on the following relevant averments:

"2- That the judgment under appeal dated 12-1-2018 was passed by the Ld. court of Ms. Poonam Suneja, Special Court/Additional Sessions Judge, Yamuna Nagar at Jagadhri, in the case bearing F.I.R.No.86 dated 17-5-2016, u/s 376, 511, 506 IPC, P.S. Chhappar, Distt. Yamuna Nagar. After perusal of the same, the District Attorney, Yamuna Nagar opined that it is a fit case to file an Appeal, against the acquittal of the above mentioned accused, before the Hon'ble Punjab Haryana High Court, Chandigarh on the grounds mentioned, being against law and facts vide Memo No.497/DAY/2018 dated 22-2-2018 and referred the same to the Superintendent of Police, Yamuna Nagar for necessary action.

3- That the Superintendent of Police, Yamuna Nagar, agreed with the report of District Attorney, Yamuna Nagar, and referred it to Ld. District Magistrate, Yamuna Nagar on dated 23- 2-2018 along with the copy of judgment dated 12-1-2018.

4- That the Ld. District Magistrate, Yamuna Nagar vide Memo No.359/VRK dated 28-3-2018 sent a request to the Advocate General Haryana, Chandigarh to prefer an appeal against the judgment of acquittal of accused.

5- That, thereafter, 0/0 the Advocate General Haryana, Chandigarh directed the S.P. Yamuna Nagar, to file an application for condonation of delay in filing the appeal along with affidavit vide memo No.125675-76 dated 3-12-2018 and the same was received on 3-12-2018 to P.S. Chhappar. After receiving the same, SI Rishi Kumar was deputed to take the file on 4- 12-2018 and facilitate in filing the appeal. But on 4-12-2018, SI Rishi Kumar was busy in the investigation of other case. However in this process, the delay of 251 has been occurred."

8. A perusal of the above-said averments clearly show that no reasonable or plausible explanation has been furnished by the applicant-State (herein) to condone the delay of 251 days in filing the application seeking leave to appeal. The instant application is bereft of any specific details/particulars which may reflect *bona fide* on part of the applicant-State in pursuing its case. The primary reason given by the State is that there was procedural delay, which was purely circumstantial in nature, has occurred



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on account of the fact that the investigation officer, who was assigned to file the instant application seeking leave to appeal against the judgment of acquittal was busy in prosecuting another case despite the fact that the prescribed period for filing such an application has already been lapsed. Subsequently, the required procedure for filing the application seeking leave to appeal was carried out, resulting in a delay of 251 days which is beyond the limitation period. In the considered opinion of this Court, the fact was very well known to the authorities that the period for limitation to file an application seeking leave to appeal is only 90 days. Having perused the purported justification, this Court is of the considered view that very mechanical reason have been given for the same, which suggest that, as if, to seek condonation of delay is a matter of right, regardless of the reasons qua the same. Indubitably, the State has to be accorded some latitude while considering the plea for condonation of delay filed by the State but the same cannot be stretched to an extent that the limitation Act is rendered otiose. The applicant-State has failed to provide any concrete explanation or document to demonstrate its genuine efforts in pursuing the matter within the prescribed time limit. No cause much less sufficient cause, as required in law, has been shown to justify or condone the significant delay of 251 days in filing the application seeking leave to appeal. 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-State has neither shown continuous interest in the case nor



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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 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 251 days in filing the application seeking leave to appeal merits dismissal.

Decision

9. The application (CRM-983-2019) seeking condonation of delay of 251 days in filing the accompanying revision petition is dismissed. Since the application seeking condonation of delay has been dismissed, the application seeking leave to appeal stands dismissed as well accordingly.

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

03.12.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No