

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRR-2156-2024

Date of Decision: 04.11.2024

M/S ANROSE PHARMA

.....PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Shubhnit Hans, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

CRM-43350-2024

Application, which is supported by an affidavit, is allowed as
prayed for.

Filing of certified copies of impugned order dated 09.10.2024
passed by the Ld. Additional Sessions Judge, SAS Nagar(Mohali) and DIM
annexures, margins, is exempted and true typed copies thereof are taken on
record.

CRR-2156-2024

1. This criminal revision petition has been directed against the
impugned order dated 09.10.2024 passed by the learned Additional Sessions
Judge, SAS Nagar (Mohali), in the matter titled “Union of India Vs. M/s
Anrose Pharma and Ors.” bearing CRM No.596 of 2019 in Criminal
Revision No. (new allotted case No.) of 2024 filed under Section 18(a)(1)
read with Section 27(d) of the Drugs and Cosmetic Act, 1940, whereby

application seeking condonation of delay of 316 days in filing the Criminal revision petition has been allowed.

2. It is contended by the learned counsel for the petitioner that the learned Additional Sessions Judge, SAS Nagar (Mohali) (hereinafter referred as 'ASJ') has illegally and erroneously condoned the huge delay of 316 days in filing the revision petition. The petitioner did not receive the notice of the complaint No.COMA 116/2016 titled "Union of India Vs. Anrose Pharma) under Section 18(a)(1) read with Section 27(d) of the Drugs and Cosmetic Act, 1940, filed before the learned Chief Judicial Magistrate, SAS Nagar, Mohali (for short – 'CJM'), and for this reason, the petitioner could not appear before the said Hon'ble Court and got the knowledge when respondent filed Criminal Revision Petition before the learned ASJ as the complaint of the complainant was dismissed in default for want of prosecution, vide order dated 07.01.2019 by the learned CJM, SAS Nagar, Mohali, as no one had appeared on behalf of the complainant on various dates i.e. 06.08.2018, 24.08.2018, 01.10.2018, 29.11.2018, 07.10.2019 and 23.01.2019. Ultimately, complaint was dismissed against all the accused on 18.02.2019. Thereafter, complainant (respondent herein) filed a Criminal Revision No.156 of 2024 before the Court of Session on 20.12.2019 titled "Union of India Vs. M/s Anrose Pharma" alongwith an application seeking condonation of delay of 316 days in filing the appeal. Even though the application was contested by the petitioner by filing reply to the application yet the application has been allowed by the learned ASJ and delay of 316 days in filing the appeal has been condoned illegally without assigning any cogent reason and in the absence of any documentary evidence. The delay was not properly explained by the complainant/respondent as such the

learned ASJ has gravely erred in condoning the delay of 316 days. Therefore, the impugned order dated 09.10.2024 is liable to be set aside and application seeking condonation of delay is liable to be dismissed.

3. Heard learned counsel for the petitioner and case file also perused.

4. It is seen from the file that the complaint of the complainant/respondent was dismissed in default by the Court of learned CJM, SAS Nagar, Mohali, vide order dated 07.01.2013, for want of prosecution. Thereafter, the petitioner filed Criminal Revision Petition against the order dated 07.01.2019 in the month of December, 2019, as the explanation for delay from the complainant counsel has come that he could not attend the case on 07.01.2019 due to wrong noting of the date by his clerk and this fact came to his knowledge on 04.12.2019 when the official of the complainant department visited his office, alongwith certain documents, i.e., property details of accused No.1 and correct addresses of Accused No.2 to 5 and thereafter, the revision petition was filed without any further delay. Thus, this Court feels that the delay has been properly explained.

5. Moreover, the order of the lower court in condoning the delay hold good in the light of judgment of Hon'ble Supreme Court reported as ***titled "Collector, Land Acquisition, Anantnag and another Vs. Ms.Katiji and others" AIR 1987 SCC 1353*** wherein it has been held that *"the Courts should adopt a liberal approach in the matter pertaining the condonation of delay in filing the appeal"*. It further observed that, *The expression "sufficient cause" is adequately elastic to enable the court to apply the law in a meaningful manner which subserves the ends of justice - that being the life-purpose for the existence of the institution 9 of courts. It is common*

knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. The expression "every day's delay must be explained" does not mean that a pedantic approach should be made. The doctrine must be applied in a rational common sense pragmatic manner. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk. Judiciary is not respected on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

6. Taking into consideration the totality of the facts and spectrum of law discussed herein above, this Court does not find any illegality and infirmity in the order passed by the learned Additional Sessions Judge, SAS Nagar, Mohali.

7. The learned counsel for the petitioner has failed to produce or refer any counter judgment, therefore, this Court in the light of above stated facts and *Collector, Land Acquisition, Anantnag's case (supra)*, uphold the order dated 09.10.2024 passed by the learned Additional Sessions Judge, SAS Nagar (Mohali), in the matter titled "Union of India Vs. M/s Anrose Pharma and Ors." bearing CRM No.596 of 2019 in Criminal Revision No. (new allotted case No.) of 2024 filed under Section 18(a)(1) read with Section 27(d) of the Drugs and Cosmetic Act, 1940, condoning the delay of

316 days in filing the Revision Petition, and dismiss the present revision petition being devoid of merits.

8. Ordered accordingly.

04.11.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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