



CRR(F)-1643-2023 (O&M)

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

255-2

**CRM-48875-2023 in/and
CRR(F)-1643-2023 (O&M)**

Date of decision: 13.11.2024

Swati Gupta and another

....Applicant/Petitioners

V/s

Manish Gupta

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Tanmoy Gupta, Advocate for the applicant/petitioners.

Mr. Nishant Indal, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

CRM-48875-2023

1. The present application has been filed on behalf of the applicant-wife for condonation of delay of 311 days in filing the accompanying revision petition. The main revision petition has been filed impugning the judgment dated 04.10.2022 passed by learned Additional Principal Judge, Family Court, Meham, whereby the respondent-husband (herein) was directed to pay Rs.40,000/- per month to the petitioners as maintenance allowance from the date of filing of the said application before the Family Court.

2. Learned counsel appearing for the applicant-petitioner, while seeking grant of prayer for condonation of delay of 311 days, has iterated that the applicant is a poor destitute lady and due to financial constraints, she could not arrange the fee of the counsel for filing the instant revision petition before this Court. It has been further submitted that the applicant, after considerable effort, managed to arrange the funds from her parents and



relatives and consulted the counsel to file the instant revision petition. Therefore, the said counsel promptly prepared the instant revision without any unnecessary delay. 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. Learned counsel for the respondent submits that delay is enormous; no explanation has been furnished for condonation of such delay. Thus, dismissal of the instant revision petition is prayed for on this score alone.

4. I have heard the learned counsel for the parties 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 311 days in filing the accompanying revision petition is sought for on the following relevant averments:

“2. That the applicant-appellant no.1 is a poor lady, who has been victimized at respondent-husband the hands of and after passing the impugned judgment and order dated 04.10.2022 passed by Ld. Additional Principal Judge, Family Court, Rohtak, the petitioners could not arranged the funds for filing the present revision petition before this Hon'ble Court and for challenging the impugned Judgment dated 04.10.2022.

3. That now the present petitioner no.1 after great difficulty arranged some amount from her parents & relatives and contacted the present counsel on 10.09.2023 for filing the present revision petition before this Hon'ble Court. The present counsel immediately prepared this revision petition for presenting the same before this Hon'ble Court, without any further delay, however, in filing the present revision petition a delay of 311 days has occurred, which is neither intentional deliberate, but due to the above said reasons.

4. That if the above said delay of 311 days in filing the present revision petition is not condoned, in that eventuality the applicants-petitioners would suffer an irreparable loss, which could not be compensated in any manner.”

8. A perusal of the above-said averments clearly show that no reasonable or plausible explanation has been furnished by the applicant-wife to justify the delay of 311 days in filing the accompanying revision petition. The present application is devoid of specific details or particulars that would demonstrate *bona fide* efforts on the part of the applicant-wife in diligently pursuing her case. The applicant-wife has neither furnished any substantial explanation nor produced any documentary evidence to substantiate her claim of making genuine efforts 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 311 days in filing the accompanying revision petition. The delay, being both excessive and unexplained, reflects a lack of due diligence. Merely attributing the delay to alleged financial difficulties, without any supporting details or corroborative evidence to substantiate these claims, does not meet the legal threshold for condonation. The applicant-wife 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 311 days in filing the accompanying revision petition merits dismissal.

Decision

9. The application (CRM-48875-2023) seeking condonation of delay of 311 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

November 13, 2024
Ajay

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