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**CRM-46732-2024 in/and
CRR(F)-1484-2024 (O&M)**

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

**CRM-46732-2024 in/and
CRR(F)-1484-2024 (O&M)
Date of Decision: 26.11.2024**

YUSUF KHAN ALIAS YUSUF

.. Applicant/Petitioner**Vs.**

RUKHSANA AND ORS

..Respondents**CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Munfaid Khan, Advocate for applicant-petitioner.

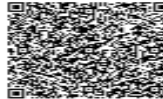
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SUMEET GOEL, J. (Oral)

1. The present application has been filed on behalf of the applicant-husband seeking condonation of delay of 1252 days in filing the accompanying revision petition. The main revision petition has been filed impugning the judgment dated 05.04.2019 passed by learned Addl. Principal Judge, Family Court, Faridabad whereby the petition under Section 125 of Cr.P.C. for grant of maintenance allowance was allowed and the petitioner-husband (herein) was directed to pay Rs.4,000/- per month to respondent No.1-wife and Rs.1500/- per month each to respondents No.2 and 3 as maintenance allowance from the date of filing of the said petition before the Family Court.

2. Learned counsel appearing for the applicant-petitioner, while seeking grant of prayer for condonation of delay of 1252 days, has argued that the accompanying revision petition could not be filed in time as the

applicant-petitioner (herein) had not received any notice from the trial Court



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that he had been proceeded against *ex-parte* on 06.06.2018 in the matter before the trial Court and even the final judgment dated 05.04.2019 had been passed against him. It has been further argued that he came to know about it when he was arrested by the police in execution petition of impugned judgment dated 05.04.2019 filed by the respondents. It has been iterated that the applicant was not familiar with the legal procedures and hence was unable to take immediate steps. 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. I have heard learned counsel for the applicant and have perused the paper-book.

4. 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:

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



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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."

5. 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."

6. Condonation of delay of 1252 days in filing the accompanying revision petition is sought for on the following relevant averments:

"3. That the applicant was not having any knowledge about pendency of said petition u/s 125 of Cr.P.C., ex-parte order dated 06.06.2018 and impugned judgment dated 05.04.2019, because no notice from Ld. Trial Court was received at the residence of applicant. It is pertinent to mention that the applicant came to know first time about petition u/s 125 of Cr.P.C., ex-parte order dated 06.06.2018 and impugned judgment dated 05.04.2019 on 18.11.2023, when the applicant was arrested by police in execution petition of impugned judgment dated 05.04.2019 filed by Respondents. Thereafter, the applicant given Rs.



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90,000/- to respondents. It is pertinent to mention that till today, the applicant had paid at about Rs. 1,45,000/- to respondents.

4. That the applicant is totally illiterate person and is not aware about legal knowledge. On advice with some advocate, applicant came to know that he should have filed criminal revision petition before Hon'ble High Court against ex-parte order dated 06.06.2018 as well as impugned judgment 05.04.2019.

5. That thereafter, the applicant applied for getting certified copies of necessary documents on 23.10.2024 and after collecting necessary document, the applicant came to Chandigarh to file criminal revision petition and met with under signed counsel. Thereafter, the applicant came to know about limitation period to file criminal revision petition. Thereafter, the applicant engaged undersigned counsel to file revision before this Hon'ble Court.

6. That without causing any further delay, the present petition is being filed before this Hon'ble Court. The delay occurred in filing the petition is neither intentional nor wilful but has occurred due to bonafide reasons mentioned above."

7. 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 1252 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 his wife and children. 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 cause much less sufficient cause, as required in law, has been shown to justify or condone the significant delay of 1252 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



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or unavoidable circumstances that could explain such an extensive delay.

7.1 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 1252 days in filing the accompanying revision petition merits dismissal.

Decision

8. The application (CRM-46732-2024) seeking condonation of delay of 1252 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.

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

26.11.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No