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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1001/2022**

SACHIN DUGGAL

..... Petitioner

Through: **Mr. Lokesh Chopra, Advocate**

versus

STATE AND ORS

..... Respondents

Through: **Mr. Yasir Rauf Ansari, ASC for State**
with **Mr. Alok Sharma and Mr. Vasu Agarwal,**
Advocates along with **SI Amit Kumar, PS: EOW.**

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

19.03.2024

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1. This criminal writ petition was filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. assailing order dated 02.06.2011 passed by Sh. Vinay Kumar Khanna, learned Additional Sessions Judge, South East, Saket Courts, New Delhi in Criminal Revision No.24/2011 titled '*Shri Kartik Sehgal v. The State (NCT of Delhi)*', in FIR No.582/2003 filed by the Petitioner. Petitioner herein was the complainant before the Trial Court while Kartik Sehgal was the accused. FIR was registered against the accused on 25.08.2003 under Sections 406/420/468/471/120B IPC. Vide order dated 31.03.2011, charge was framed against the accused by learned ACMM and this order was assailed in the revision petition along with the order on charge dated 05.02.2011. By the impugned order dated 02.06.2011, Revisional Court discharged the accused



from the alleged offences and the order on charge as well as the order framing the charge were set aside.

2. When this petition was listed for admission on 04.05.2022, Court had passed an order directing the Petitioner to explain the delay and laches of over more than 10 years in filing the petition since the impugned order was passed on 02.06.2011. Petitioner had sought time to make submissions. Relevant part of the order reads as follows:-

“Learned counsel for the petitioner is directed to explain the delay and laches of over a period of more than 10 years, since the impugned order was passed on 02.06.2011, while the petitioner has approached this Court in the year 2022. Notice to respondent Nos.2 and 3 shall be issued only thereafter. Learned counsel for the petitioner seeks time to make submissions.”

3. Learned counsel for the Petitioner states that sufficient cause has been made out in the petition to explain the delay in approaching this Court assailing the impugned order dated 02.06.2011 and in this context draws the attention of the Court to page 26 paragraph 3 (xxii) of the petition wherein it is stated that a separate suit for recovery was filed by the Petitioner and it was only during the cross-examination of the Petitioner that he learnt that the revision petition had been dismissed and accused Kartik Sehgal had been discharged.

4. Status report has been filed on behalf of the State defending the impugned order and pointing out that on merits the accused was rightly discharged by the Revisional Court.

5. There is no doubt that Petitioner has slept for over a decade before filing the present petition as the impugned order was passed on 02.06.2011. There is no explanation worth a mention in the petition explaining the reason that prevented the Petitioner from approaching this Court for a period



of 10 years. In paragraph 3 (xxii), it is stated that Petitioner learnt of the impugned order during his cross-examination in the civil suit filed by him but the date of the cross-examination is not mentioned and therefore, this Court is unable to discern the date of knowledge of the impugned order. Moreover, revision was filed impugning the order on charge and the order framing the charge against the accused and it is unbelievable that Petitioner who was the complainant before the Trial Court would not have known during the Trial Court proceedings that accused had been discharged. Petitioner has slept over his rights and only because he has chosen to wake up from the slumber after a decade, without any explanation for the delay, this Court sees no reason to entertain this petition and interfere with the impugned order whereby accused has been discharged. Courts have time and again discouraged entertaining belated and stale claims, particularly, when the other side has acquired vested rights and will be prejudiced if belated claims are entertained and this would be more so in the present case, where accused stands discharged 10 years ago. In ***Neerja Bhargava v. State of NCT of Delhi & Anr., 2015 SCC OnLine Del 12505***, this Court observed as under:-

“13. Laches have important bearing while deciding such petitions. Persons whose right is being intruded by the opposite parties must keep vigil and must not sleep over their right. Law needs to be put into motion as and when somebody's legitimate rights are invaded otherwise it will be taken that he has given consent to the other party to carry on with the affairs. Therefore, prima-facie the petitioner is guilty of laches. Laches is an “unreasonable delay pursuing a right or claim in a way that prejudices the opposing party”. It is an equitable defence, that is, a defense to a claim for an equitable remedy. In other words, failure to assert one's rights in a timely manner can result in a claim being barred by laches. Laches is associated with one of the maxims of equity Vigilantibus non dormientibus aequitas subvenit. (Equity aids the vigilant, not the sleeping ones).”



6. In ***Sarah Mathew v. Institute of Cardio Vascular Diseases by its Director Dr. K.M. Cherian and Others***, (2014) 2 SCC 62, the Supreme Court observed as under:-

“24. Read in the background of the Law Commission's Report and the Report of the JPC, it is clear that the object of Chapter XXXVI inserted in the Criminal Procedure Code was to quicken the prosecution of complaints and to rid the criminal justice system of inconsequential cases displaying extreme lethargy, inertia or indolence. The effort was to make the criminal justice system more orderly, efficient and just by providing period of limitation for certain offences. In Sarwan Singh [State of Punjab v. Sarwan Singh, (1981) 3 SCC 34 : 1981 SCC (Cri) 625 : AIR 1981 SC 1054] , this Court stated the object of the Criminal Procedure Code in putting a bar of limitation as follows : (SCC p. 36, para 3)

“3. ... The object of the Criminal Procedure Code in putting a bar of limitation on prosecutions was clearly to prevent the parties from filing cases after a long time, as a result of which material evidence may disappear and also to prevent abuse of the process of the court by filing vexatious and belated prosecutions long after the date of the offence. The object which the statutes seek to subserve is clearly in consonance with the concept of fairness of trial as enshrined in Article 21 of the Constitution of India. It is, therefore, of the utmost importance that any prosecution, whether by the State or a private complainant must abide by the letter of law or take the risk of the prosecution failing on the ground of limitation.”

7. In ***Bata alias Batakrushna Behera and others v. Anama Behera***, 1989 SCC OnLine Ori 325, a single Judge of the Orissa High Court observed as follows:-

“11. Of course for an application under section 482 Cr.P.C. there is no limitation. I am of the view that when there is no limitation for filing an application, the application should be filed within a reasonable time. A revision petition challenging an order can be filed within 90 days from the date of the order. An application under section 482, Cr.P.C. should also be filed within a reasonable time, so that the progress of the case is not disturbed at a belated stage. I am of the view that period of 90 days which is at par with a revision petition should be treated as reasonable and if any application under section 482, Cr.P.C. is filed beyond the period of 90 days, the petitioner should explain the cause of the delay.....”



8. In view of the fact that there is an inordinate delay in filing the present petition, which is unexplained, this Court sees no reason to exercise jurisdiction to entertain the petition and the same is accordingly dismissed.

MARCH 19, 2024/kks/shivam

JYOTI SINGH, J