



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

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**CRR No. 282 of 2024 (O&M)
Date of decision: 21.03.2025**

Pardeep Baghel

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Naveen Bawa, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. CRM-6471-2024

Prayer in this application is for condoning the delay of 50 days in filing the present revision petition.

For the reasons stated in the application, the same is allowed and the aforesaid delay in filing the present revision petition is hereby condoned.

2. CRR-282-2024 (O&M)

The present revision petition has been filed against the judgment dated 18.09.2023, passed by the Court of learned Additional Sessions Judge, Ludhiana, whereby the appeal filed by the petitioner against the judgment of conviction and order on quantum of sentence, both dated 19.10.2019, passed by the Court of learned Judicial Magistrate First Class, Ludhiana holding him guilty for commission of offences punishable under Sections 457, 427, 380 read with Section 511 of IPC and sentencing to the period already undergone by him, had been dismissed.

3. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR had been registered on the

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allegations that in the intervening night of 23/24.03.2018, he had attempted to commit theft in the house of Additional Sessions Judge, Ludhiana and had damaged the door and other articles of the house. After registration of FIR, investigation proceedings were initiated. The petitioner was arrested by the police on the identification of one Deepak Singh Sood. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented in the Court against the petitioner.

4. Copies of *challan* and other documents were supplied to the petitioner free of cost. On finding a *prima facie* case for framing charges under Sections 457, 380 read with 511 of IPC and Sections 427 of 506 of IPC against the petitioner, he was chargesheeted accordingly. He pleaded not guilty to the charges and claimed trial.

5. To substantiate its case, the prosecution examined 05 witnesses besides relying upon documentary evidence and thereafter, its evidence was closed by order.

6. Statement of the petitioner was recorded under Section 313 of Cr.P.C., wherein he pleaded innocence and took a plea that he had been falsely implicated. No defence witness was examined.

7. After appraising the evidence produced on record and considering the contentions as raised by both the sides, the learned trial Court, vide judgment of conviction and order on quantum of sentence dated 19.10.2019, held the accused guilty for commission of offences punishable under Sections 457, 427, 380 read with 511 of IPC and while observing that the petitioner was not entitled for probation, sentenced him to the period already undergone by him. Feeling aggrieved, the petitioner preferred an appeal before the lower appellate Court,

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which too had been dismissed on the grounds of limitation, vide impugned judgment dated 18.09.2023.

8. The present revision petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the impugned judgments as passed by the Courts below are not sustainable in the eyes of law as the same are not based on correct appreciation of facts and evidence. The learned trial Court had wrongly held that the petitioner was guilty for commission of offences punishable under Sections 457, 427, 380 read with 511 of IPC. In fact the ingredients for commission of either of these offences had not been made out even from the allegations in the FIR and also on the basis of the evidence produced on record before the learned trial Court. It is further argued that the impugned judgment dated 18.09.2023, passed by the appellate Court, is also not sustainable in the eyes of law as the same is totally non-speaking and cryptic. The appeal of the petitioner, filed against the judgment of conviction and order on quantum of sentence passed by the learned trial Court, had been dismissed only on the grounds of delay by observing that he had failed to explain such delay in filing the appeal. It is argued that the petitioner had properly explained the delay occurred in filing the appeal with sufficient cause but the same had been ignored and the appellate Court had dismissed the appeal on mere technicalities. Hence, it is urged that the petition deserves to be accepted, the impugned judgments passed by the Courts below are liable to be set aside and the petitioner deserves to be acquitted from the charges framed against him.

9. Learned Senior Deputy Advocate General, Punjab has argued that there is no infirmity or illegality in the impugned judgments as they have been passed by the Courts below on correct appreciation of facts and evidence brought on record. Hence, she has prayed for dismissal of the present petition.

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10. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record very carefully.

11. As per prosecution case, in the intervening night of 23/24.03.2018, the petitioner had attempted to commit theft in the house of Additional Sessions Judge, Ludhiana and had damaged the door and other articles of the house. As evident from the record, he had been held guilty for commission of offences punishable under Sections 457, 427, 380 read with 511 of IPC by the learned trial Court and was sentenced to the period already undergone by him, vide impugned judgment of conviction and order on quantum of sentence. Aggrieved from the same, the petitioner had filed an appeal before the appellate Court but the same had been dismissed only on the ground of delay, without going into the merits of the appeal. The judgment of conviction was pronounced on 19.10.2019 by the learned trial Court. The copy of the judgment was delivered to the petitioner on 05.11.2019. However, the appeal was filed on 06.01.2021. The petitioner had taken a plea that he was serving in BSF and since after pronouncement of judgment of conviction, his employer had allowed him to continue in service, he did not file any appeal but subsequently, on 21.04.2020, he was terminated from service considering the impugned judgment dated 19.10.2019 as conviction.

12. It is argued that when the petitioner was terminated from service on 21.04.2020 and only then he came to know that in fact he should file an appeal against his conviction but since there was pan India lockdown due to outbreak of Covid-19, hence, he could not file the same in time. A perusal of the judgment passed by the learned appellate Court reveals that these facts have been taken into consideration but it was found that still the delay of 04 months and 09 days had

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not been explained by the petitioner and it was only on that ground that the appeal was dismissed.

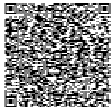
13. The primary question that arises before this Court for consideration is as to whether the appellate Court was justified in dismissing the appeal of the petitioner only on the grounds of delay? While discussing the parameters for exercising discretion by the Courts in condoning delay, the Supreme Court in ***Sheo Raj Singh (Deceased) through Legal Representatives and Others vs. Union of India and another : (2023) 10 SCC 531*** considered and discussed its various pronouncements and looked into the approaches adopted by the Court and it was ultimately held that as per its judicial pronouncements, the discretion to condone the delay calls for a liberal and justice-oriented approach by the Courts.

14. Reliance can also be placed upon ***Dilip S. Dahanukar vs. Kotak Mahindra Co. Ltd. : (2007) 6 SCC 528***, wherein Hon'ble Supreme Court has observed that an appeal is indisputably a statutory right and an offender who has been convicted is entitled to avail the right of appeal which is provided for under Section 374 of Cr.P.C. as the right of appeal from a judgment of conviction affecting the liberty of a person keeping in view the expansive definition of Article 21 of the Constitution of India is also a fundamental right.

15. Reference can also be made to the authority cited as ***Rajendra vs. State of Rajasthan, (1982) 3 SCC 382 (2)***, wherein Hon'ble Supreme Court has held that where the appellant furnishes reasons for delay in filing an appeal, the Court would not dismiss the appeal as time-barred without examining the reasons for the delay.

16. In view of above cited authorities, it is evident that the right to appeal, particularly when it concerns the liberty of an individual, is a

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fundamental right under Article 21 of the Constitution. The appellate Court's order dismissing the appeal solely due to delay, without properly examining the reasons for the delay, therefore, warrants reconsideration. The petitioner has explained the reasons for the delay in filing the appeal by giving sufficient cause like unawareness of impact of reduction in sentence instead of his acquittal and imposition of nationwide outbreak of Covid-19 pandemic. However, the appellate Court has dismissed the appeal on mere technicality that some portion of delay was not properly explained. The petitioner was serving in BSF and due to the effect of conviction; he has lost his job, which was the source of his livelihood. In the opinion of this Court, it is very harsh to deny the right of appeal to the petitioner in the peculiar facts of the case and it is considered appropriate to remand the case to learned appellate Court for deciding the appeal on its merits. Accordingly, without going into the merits of the case, the present petition is partly allowed and the impugned judgment dated 18.09.2023, passed by the learned appellate Court, is set aside. The case is remanded to learned appellate Court for deciding the appeal of the petitioner on its merits in accordance with law. The petitioner is accordingly directed to appear before the said Court on 22.04.2025.

21.03.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No