



CRM-A-923-MA-2018 (O&M)

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

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**CRM-16831-2018 in/&
CRM-A-923-MA-2018 (O&M)**

Date of decision: 18.08.2025

The Haryana Cooperative NATC Society Ltd.

....Applicant

V/s

Mohinder Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sandeep Berwal, Advocate for the applicant.

SUMEET GOEL, J. (Oral)

1. The present application has been filed on behalf of the applicant seeking condonation of delay of 114 days in filing the application under Section 378(4) Cr.P.C. for grant of leave to appeal. The application seeking leave to appeal has been filed impugning the order dated 08.11.2017 passed by Additional Sessions Judge, Kaithal whereby the appeal filed by the respondent (herein) was allowed and he was acquitted of the charges under Section 138 of the Negotiable Instruments Act.

2. Learned counsel for the applicant, while seeking grant of prayer for condonation of delay of 114 days, has iterated that the delay has occurred as the applicant, being a Co-operative Society, was required to complete certain formalities before filling the appeal. It has been further iterated that the certified copy of the impugned judgment was inadvertently placed in another official record and could not be traced despite repeated efforts. It was only in the first week of February, 2018 that the certified copy of the judgment was located whereupon immediate steps were taken to prefer the



appeal. According to learned counsel, due to *bona fide* mistakes in calculation of limitation, objections were raised by the Registry, leading to re-filing. Learned counsel asserts that immediately upon gaining this knowledge, the applicant-Society took all the necessary steps to arrange for the filing of the present application seeking leave to appeal. Consequently, a delay of 114 days has occurred in filing the application seeking leave to appeal. Learned counsel for the applicant has further argued that the circumstances of the case indicate that the delay in filing the instant application seeking leave to appeal 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:

(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."*

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:



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.”*

6. Condonation of delay of 114 days in filing the accompanying application seeking leave to appeal is sought for on the following relevant averments:

“2. That the certified copy of Judgment dated 08.11.2017 passed by the Ld. Additional Sessions Judge, Kaithal was applied on 09.11.2017 and the same was received on 21.11.2017 by the applicant/appellant and required to be file within period of limitation, but the applicant/appellant could not file the said appeal within a period of limitation due to the reason that the appellant is a Co-operative society and for filing an appeal Certified copy of the certain formalities were required. judgment dated 08.11.2017 was mistakenly kept in other official record file, which couldn't be traced after attempting so many efforts. But fortunately, in the first week of Febuary, 2018, the staff of the appellant society succeeded to trace the certified copy which was mistakenly kept in other official file and thereafter immediately contacted the present counsel for preferring an appeal against the judgment dated 08.11.2017 The appeal was filed on 28.02.2018 with delay of 60 days but due to wrong calculation the days of delay in filing the appeal were mentioned as 49 days and the registry raised an objection of wrong calculation of delay days on 23.03.2018. Then the appeal was again filed with delay of 87 days. Again objections were raised and after removing the objections the appeal is again being filed with total delay of 114 days.

3. That the delay of 114 days took place due to the bona-fide reasons stated above which is beyond control of the appellant/ applicant and in view of the above stated fact which deserves to be condoned in the interest of justice.”

7. A perusal of the above-said averments clearly show that no reasonable or plausible explanation has been furnished by the applicant



(herein) to condone the delay of 114 days in filing the accompanying application seeking leave to appeal. The explanation put forth by the applicant-Society is that though the certified copy of the impugned judgment was applied on 09.11.2017 and received on 21.11.2017, the same was allegedly misplaced in another official file of the Co-operative Society and could not be traced despite efforts. It is further pleaded that only in the first week of February 2018, the copy was traced and thereafter steps were taken to file the appeal. Initially, the appeal was filed on 28.02.2018 but due to wrong calculation of the period of delay, objections were raised and thereafter the same was re-filed and finally with a delay of 114 days. In the considered view of the Court, the explanation furnished does not inspire confidence. Flimsy grounds have been taken to explain the delay. Perusal of the application would reveal that not only the application has been filed in a mechanical manner but even the mandate of law, which envisages each day's delay has to be explained, is completely amiss in the averments of the application. No worthwhile explanation has been given for the same.

7.1. No cause much less sufficient cause, as required in law, has been shown to condone the delay of 114 days in filing the accompanying application seeking leave to appeal. The delay is both inordinate and inexplicable. It is axiomatic that condonation of delay is a matter of discretion of the Court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter; acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to want of acceptable explanation whereas in certain other cases, delay of a



very long range can be condoned as the explanation thereof is satisfactory. 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. Hence the application seeking condonation of delay of 114 days in filing the accompanying revision petition merits dismissal.

Decision

8. The application (CRM-16831-2018) seeking condonation of delay of 114 days in filing the application under Section 378(4) Cr.P.C. for grant of leave to appeal is hereby dismissed. Since the application seeking condonation of delay has been dismissed, the application under Section 378(4) Cr.P.C. for grant of leave to appeal stands dismissed as well accordingly.
9. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

August 18, 2025
Ajay

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