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**CRM-43824-2024 in/and
CRM-A-1447-2024 (O&M)**

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

**CRM-43824-2024 in/and
CRM-A-1447-2024 (O&M)
Date of Decision: 08.01.2025**

**M/s Shriram Transport Finance Co. Ltd. .. Applicant
Vs.**

Avtar Singh ..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Mukesh Kumar Bhatnagar, 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 255 days in filing the application seeking leave to appeal. Leave to appeal has been sought for by the applicant against the judgment dated 29.11.2023 passed by the ld. JMIC, Tarn Taran, wherein the respondent was acquitted from accusation in a complaint filed under Section 138 of Negotiable Instruments Act, 1881.

2. Learned counsel appearing for the applicant, while seeking grant of prayer for condonation of delay of 255 days, has argued that the delay has occurred as the applicant-finance company had applied for the certified copy of the impugned judgment dated 29.11.2023 on 30.11.2023 and the same was delivered on 02.01.2024 and after taking the approval from the Head office in Bombay and arranging some funds, the applicant had engaged the counsel to file the instant application seeking leave to appeal before this Court. Learned counsel for the applicant has further argued that the circumstances of the case indicate that the delay in filing the

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application seeking leave to appeal is neither intentional nor deliberate hence the 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 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



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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 ***'State of Madhya Pradesh Vs. Ramkumar Choudhary', Neutral Citation: 2024 INSC 932***, has observed as under:

"The legal position is that where a case has been presented in the Court beyond limitation, the petitioner has to explain the Court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the Court within limitation. In Majji Sannemma v. Reddy Sridevi, it was held by this Court that even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute. A reference was also made to the decision of this Court in Ajay Dabra v. Pyare Ram wherein, it was held as follows:

"13. This Court in the case of Basawaraj v. Special Land Acquisition Officer ((2013) 14 SCC 81] while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

"15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.

14. Therefore, we are of the considered opinion that the High Court did not commit any mistake in dismissing the delay condonation application of the present appellant."

Thus, it is crystal clear that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case

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and that, the expression 'sufficient cause' cannot be liberally interpreted, if negligence, inaction or lack of bona fides is attributed to the party."

6. Further, 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."

7. Condonation of delay of 255 days in filing the application seeking leave to appeal is sought for on the following relevant averments:

"2. That the impugned judgment was passed on 29.11.2023 and copy thereof was applied on 30.11.2023 and was prepared on 19.12.2023 and was delivered on 02.01.2024. It is submitted that after taking the approval from the Head office at Bombay then file was send to the counsel for filing appeal against the order dated 29.11.2023 before this Hon'ble Court. The copy of Impugned judgment dated 29.11.2023 is annexed herewith for kind perusal of this Hon'ble Court.

3. That the appellant is finance company and after taking the approval approached the under signed counsel for filing the appeal after arranging the funds and therefore the present appeal is being filed without any further delay."

8. A perusal of the above-said averments clearly show that no reasonable or plausible explanation has been furnished by the applicant to condone the delay of 255 days in filing the application seeking leave to appeal. The applicant 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

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law, has been shown to justify or condone the significant delay of 255 days in filing the application seeking leave to appeal. 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 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 255 days in filing the application seeking leave to appeal merits dismissal.

Decision

9. The application (CRM-43824-2024) seeking condonation of delay of 255 days in filing the application seeking leave to appeal is dismissed. Since the application seeking condonation of delay has been dismissed, the application seeking leave to appeal stands dismissed as well accordingly.

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

08.01.2025
Jasmine Kaur

(SUMEET GOEL)
JUDGE