

2025:PHHC:003242



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM 45895 of 2024 in/and
CRR 2316 of 2024 (O&M)
Date of Decision: 09.01.2025

Kuldeep Singh @ Mintu

...Petitioner

Versus

Gurwinder Singh

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. A.S. Dhaliwal, Advocate, for the applicant/petitioner.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present revision petition against the impugned judgment and order dated 28.10.2014 passed by the Court of Judicial Magistrate 1st Class, Moga, whereby, the present petitioner was convicted for committing offence under Section 138 of the Negotiable Instrument Act and was sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs. 5,000/- alongwith default stipulation as well as order dated 18.11.2015 passed by the Additional Sessions Judge, Moga, whereby, appeal filed by the present petitioner was ordered to be dismissed for want of prosecution in view of the law laid down by the Hon'ble Supreme Court in the matter of *Surya Baksh Singh Vs. State of Uttar Pardesh, 2013(4), RCR, 880.*

2. Alongwith the petition, the petitioner has also filed an application (CRM 45895 of 2024) under Section 5 of the Limitation Act for condonation of delay of 3584 days in filing the present revision petition.

3. Learned counsel for the petitioner has vehemently argued that the petitioner had faced the trial before the trial Court and vide the impugned judgment and order dated 28.10.2014 passed by the Court of Judicial Magistrate 1st Class, Moga, he was convicted and sentenced. Thereafter, the petitioner filed an appeal before the appellate Court and he could not appear before the appellate Court on 30.10.2015 as his counsel informed him that he shall be informed as and when his case would be listed and his presence would be required. He further submits that on 30.10.2015, his bail order was cancelled and the bail bonds and surety furnished by him were ordered to be forfeited to the State due to his non-appearance before the appellate Court. The non-bailable warrants were issued for 18.11.2015 and notice under Section 446 Cr.P.C. was also issued. On 18.11.2015, again he could not appear before the appellate Court and the case was dismissed for want of prosecution. Now, the petitioner went to the counsel to inquire about the status of his appeal after about 09 years and he was informed by counsel that his appeal had been dismissed for non-prosecution. Thus, due to the said bonafide reason, a delay of 3584 days had occurred, which was not intentional

and the present application may be allowed and the appeal may be ordered to be condoned.

3. I have heard learned counsel for the petitioner and perused the record.

4. Before going into the merits of the case, first of all, it is well settled that the length of delay is not material, but the reasons stated thereof for condonation of delay. In other words, for condonation of delay, the reasons adduced must be properly pleaded and explanation should be offered for condonation of delay. Even, such reasons have to be convincing and explained. Unless, proper explanation is offered, the Courts cannot exercise its discretion in proper perspective to advance the substantial justice. In the present case, the appeal was filed by the present petitioner before the appellate Court in the year 2015 and on several dates, he did not appear before the appellate Court. Even, it cannot be stated that the petitioner was not aware of the legal proceedings. In fact, he himself had faced the proceedings before the trial Court w.e.f. 19.02.2013 to 08.10.2014, when he was finally convicted and he was well aware of the fact that an accused has to appear before the Court in a complaint case on each and every date of hearing. Even, he had filed the appeal through his counsel in the year 2015 before the appellate Court. However, for about 09 years, he did not appear before the appellate

Court and now the present revision petition has been preferred without offering any plausible explanation.

5. The petitioner has offered no reasonable explanation for condoning the delay of 3584 days and it appears that there is negligence on the part of the present petitioner and he tried to delay the disposal of appeal before the appellate Court and now the petition has been filed after such long and unexplained delay.

6. Finding no merits, the application for condonation of delay as well as the revision petition are ordered to be dismissed.

09.01.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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