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% 29.04.2011

Present: Mr. Kunal Malhotra, Advocate for the petitioners.  
Ms. Santosh Kohli, APP for the State/respondent No.1.  
Mr. Hasan Anzar, Advocate for respondent No.2.

**+Crl.M.A. NO.951/2011(delay) & Crl.Rev.Pet. No.40/2011 & Crl.M.A. No.949/2011(stay)**

Mehmood Hasan and others have been charged vide order dated 02.01.2010 of learned ASJ for the offence under Section 147/148/149 read with Section 341 IPC as well as for the charge under Section 364 read with Section 511 IPC.

Feeling aggrieved by the framing of charge, the petitioners have preferred revision Petition No. 40/2011 after a delay of 298 days beyond the period of limitation. Thus, vide instant application Crl.M.A. No.951/2011, the petitioners have prayed for condonation of delay in filing revision petition and hearing of revision petition on merits.

The explanation given by the petitioner for long delay of 298 days in filing the revision petition is that some family members and friends, namely, Habib-ur-Reuman, Khurshed Alam, Chawdhry Nazeer Ahmed, Chawdhry Firoz Khan, Chawdhry Saurabh Khan, Mrs. Saeeda and sisters of the petitioner were making efforts for bringing about settlement between the petitioners and the complainant. While the talks for

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settlement were going on, the complainant assured the petitioners that she will withdraw the complaint and for that reason the petitioners did not file revision against the framing of charge within the period of limitation. The complainant, however, backed out from her assurance in November, 2010. This led to petitioners filing a petition under Section 482 Cr.P.C. in the High Court for quashing of the complaint and the charge sheet. Said petition was dismissed by this Court vide order dated 12.11.2010 as not maintainable with liberty to the petitioners to seek legal remedy available under law. Pursuant to said order this petition was filed. It is submitted on behalf of the petitioners that because of aforesaid circumstances, petitioners were prevented from filing the revision against the order on charge within the period of limitation.

It is well settled proposition of law that on sufficient cause being shown for not filing the revision within prescribed period of 90 days from the date of order, the Court may condone the delay under Section 5 of the Limitation Act, 1963. The question for determination is whether the petitioners have been able to show sufficient cause? On perusal of the application being Crl.M.A. No.951/2011 seeking condonation of delay in filing the revision petition, it is seen that the petitioners have not cared to give the dates on which the alleged talks of compromise with the aid of family members and friends started and the date on which the complainant actually assured to withdraw her complaint against the

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petitioners. It is not clear from the application, whether the alleged talks for settlement started before the expiry of period of limitation for filing revision or later. It is also not clear on which date the complainant allegedly assured the petitioners that she would withdraw the complaint. In absence of any specific averment in this regard, I find it difficult to accept the explanation given by the petitioners for delay in filing of revision. The order by this Court dated 12.11.2010 also does not help the petitioners because vide that order, the application seeking quashing of the proceedings was dismissed as not maintainable and the liberty was granted to the petitioners only in respect of legal remedies available to him. That order, by no means condoned the delay in filing of the petition by the petitioners. Thus, under the circumstances, I am of the view that the petitioners have failed to give sufficient explanation which may justify condonation of delay in filing revision against the charge. Accordingly, the prayer for condonation of delay is declined.

The consequence of the dismissal of the application for condonation of delay is that the revision petition being time barred is not maintainable. Even otherwise, on perusal of record, it transpires that the charges against the petitioners has been framed by learned ASJ on the basis of the specific allegations made in the complaint supported by evidence led by the complainant in the preliminary inquiry conducted by

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the court. Therefore, there is no infirmity or illegality in the impugned order framing charges against the petitioners, which may call for the intervention by this Court in exercise of its revisional jurisdiction. Thus, on merits also, the petition is liable to be dismissed.

In view of the discussion, revision petition as well as the accompanying applications are dismissed.



**(AJIT BHARIHOKE)**  
**JUDGE**

**APRIL 29, 2011**  
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