

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

Cr LP No.48/2019
c/w
CrIM No.781/2019

State through Police Station, SHO RajouriApplicant (s)

Through :- Mr. A. M. Malik, Dy AG

V/s

Mohd Satar and anotherNon-applicant(s)

Through :-

Coram: HON'BLE MR. JUSTICE SANJAY KUMAR GUPTA, JUDGE

JUDGMENT

CrI M No.781/2019

1. The applicant/petitioner has filed the instant application seeking condonation of 253 days delay in filing the Criminal Acquittal Appeal against the judgment dated 19.05.2018 passed by the learned Principal Sessions Judge, Raouri whereby the respondents have been acquitted.
2. It is stated in the application that the judgment was announced on 19.05.2018 and on receipt of copy of the judgment from the trial Court, matter was referred to the Department of Law, Justice and Parliamentary Affairs alongwith the record of the case for its examination and opinion. The Law Department after examining the judgment in the light of the record of the case and taking a holistic view of the matter, advised the appellant to file the appeal before the High Court against the impugned judgment vide Govt. Order No.3752-

LD(ACQ) of 2018 dated 06.07.2018. The appellant on receipt of the communiqué from the Government, immediately contacted the learned AAG and provided all the relevant record. Learned AAG after perusing the judgment and documents has prepared the appeal and the applications on 29.04.2019 and filed the same on 04.05.2019. The appeal alongwith the applications were filed after a delay of 253 days. The delay in filing the appeal is neither deliberate nor intentional but procedural because of the circumstances detailed above. It is further submitted that the delay caused in filing the appeal is on account of bona fide procedural aspects and no mala fide or deliberate act of causing delay is involved in it.

3. Heard learned counsel for the applicant/petitioner and perused the record.
4. During course of the arguments, learned counsel for the applicant/petitioner in support of his case has relied upon the judgment of the Supreme Court in case titled **“State of Nagaland vs Lipok AO and others”**, reported in **AIR 2005 SC 2191**.
5. From the perusal of impugned judgement, it is evident that accused have been acquitted on 19.05.2018; sanction for filing appeal has been granted on 06.07.2018, after less than two months. But present petition has been filed on 04.05.2019 that is after about ten months; so total delay in filing the appeal is 253 days from the date of judgment.

6. Rules of limitation are *prima facie* rules of procedure and do not create any rights in favour of any person nor do they define or create cause of action but simply prescribe that the remedy could be exercised only upto a certain period and not beyond it. The expression 'sufficient cause' is not to be liberally construed to such an extent that the rules are rendered inconsequential and reduced to a 'dead provision' on the Statute book. The Rules of Limitation are not superfluous or vestigial but are to be interpreted in a meaningful manner so as to save the system from anarchy. Why should there be a time frame prescribed under law for a legal remedy? Law of Limitation fixes a life span for every legal remedy. Time is precious and the wasted time would never resist. So, a life span must be fixed for each remedy. Unending period for launching the remedy may lead to an unending uncertainty and consequential anarchy. It is enshrined in maxim, "Interest reipublicae ut sit finis litium (It is for the general welfare that there should be an end to litigation). Every legal remedy must be kept alive for legislatively fixed period of time. Although certain latitude must be given in filing review but that does not mean that law of limitation in filing such petition shall become redundant or superfluous. Law is also clear that each day after limitation time, is required to be explained by cogent means. It cannot be set aside on flimsy grounds and at the wish of applicant who remained all along negligent.
7. In the present case, so far as the averments made in the application are concerned, it may be said that there is a gross negligence on the part of

the applicant as no valid ground has been given for the reason as to why a delay of 253 days had occurred. There is so much of gross negligence on the part of the applicant that even the word 'sufficient cause' has not been used by him in the application. After the expiry of period of limitation a vested right is created in a party which cannot be defeated easily. The delay of 253 days (approximately ten months) has occurred and applicant has miserably failed to satisfy the court with regard to delay in filing the acquittal appeal. The grounds mentioned are self created, in order to create illusion of facts that applicant has sufficient grounds for condoning the delay. No sufficient grounds have been shown for condoning the delay.

8. Learned counsel for the applicant/petitioner has relied upon the judgment titled **State of Nagaland vs Lipok AO and others** (supra), is not applicable in the present set of circumstances because in that judgment there was delay of 57 days, but in the present case, there is a delay of 253 days. Applicant has miserably failed to satisfy the court with regard to delay in filing the application seeking review. Court cannot come to rescue of a litigant who always remained careless. No sufficient grounds have been shown for condoning the delay.
9. It is pertinent to mention here that the State has preferred the instant case against the accused Nos. 1 to 5 in a casual manner, whereas the trial court has already proceeded against accused No. 6 u/Sec 512 Cr.P.C during the pendency of trial as is reflected in the concluding paragraph of the impugned judgment.

10. It is apt to reproduce paragraph 13 of the case titled **Office of the Chief Post Master General and others vs Living Media India Ltd. and another**, reported in **2012 (3) SCC 563** as under:

“13) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

11. Accordingly, the application seeking condonation of delay is **dismissed** and resultantly the application seeking leave to file appeal along with acquittal appeal are also **dismissed** as barred by time.

(Sanjay Kumar Gupta)
Judge

Jammu
28.02.2020
Vijay

Whether the order is speaking : Yes / No
Whether the order is reportable : Yes / No