

**Petitioner Vs. Respondent**

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**Court :** Chennai

**Decided On :** Nov-30-2016

**Judge :** M. Venugopal

**Appeal No. :** Crl.M.P. No. 12659 of 2016 in Crl.A.Sr. No. 50230 of 2016

**Appellant :** Petitioner

**Respondent :** Respondent

**Judgement :**

1. Heard Mr.L.Rajasekar, Learned Counsel for the Petitioner/Appellant/Accused and Ms.M.F.Shabana, Learned Government Advocate (Crl.Side) for the Respondent/Complainant.

2. According to the Petitioner/Appellant/Accused, there is a delay of 144 days in projecting the present Criminal Appeal in Sr.No.50230 of 2016 as against the Judgment dated 04.05.2016 in S.C.No.182 of 2014 passed by the Learned Sessions Judge, Fast Track Mahila Court, Krishnagiri.

3. The reason ascribed on behalf of the Petitioner/Appellant for the delay of 144 days in question is that he had not remitted the fine amount and was confined to Central Prison, Vellore from the date of passing of the Judgment and because of his family circumstances and financial constrains, he could not prefer the Appeal in time. Moreover, he is a flower vendor in the Village and has three school going children, besides having aged parents.

4. At this juncture, the Learned Counsel for the Petitioner/Appellant projects an argument that for the Petitioner/Appellant, there is no other person to help him so as to engage an Advocate for preferring an Appeal.

5. Conversely, it is the submission of the Learned Government (Crl.Side) for the Respondent/Prosecuting Agency that the trial Court had found the Petitioner/Appellant guilty in respect of an offence under Section 376 of the Indian Penal Code and acquitted him in respect of an offence under Section 323 of the Indian Penal Code. As a matter of fact, the trial Court imposed a sentence of seven years Rigorous Imprisonment for an offence under Section 376 I.P.C., besides imposing a fine of Rs.25,000/-, in default of payment of fine, six months further Simple Imprisonment was imposed.

6. The clearcut stand of the Respondent/Prosecuting Agency/Complainant is that the reasons ascribed on behalf of the Petitioner/Appellant/Accused are not genuine and bona fide. As such, the 'Delay Condonation Petition' deserves dismissal, in the hands of this Court.

7. It is to be borne in mind that a 'Court of Law', ordinarily, is to adopt a practical, pragmatic, purposeful, meaningful, a rational approach, avoiding either technicalities or hyper technicalities, with a view to sub-serve the ends of Justice.

8. It cannot be gainsaid that no party/litigant files an Application/Petition for Condonation of Delay in a given subject matter with a deliberate delay and if it is done so, he or she runs a serious risk in this regard. Per contra, if the 'Condonation of Delay Petition' is condoned by a Court of Law, taking a lenient and liberal view, there is a possibility of the Petitioner/prospective Appellant to take part in the main arena of proceedings in Criminal Appeal filed by him. On the other hand, if the 'Condonation of Delay Petition' is dismissed at the nascent stage, then, the doors of Justice are closed at the threshold and there is a even possibility that even a meritorious case can be thrown out without a chance being provided to the concerned affected/the aggrieved person.

9. Be that as it may, on a careful consideration of respective contentions and also this Court, taking note of the attendant facts and circumstances of the present

case in an encircling fashion, comes to an inevitable conclusion that the Petitioner/Appellant/Accused has assigned reasons for the delay of 144 days, like he being a flower vendor in the Village, having three school going children, having aged parents and he being confined in Prison etc., this Court, by taking a pragmatic and practical view, condones the delay of 144 days, subject to a rider that the Petitioner/Appellant/Accused shall pay a cost of Rs.1500/- (Rupees One Thousand Five Hundred Only) to the Tamil Nadu State Legal Services Authority, High Court, Madras, on or before 14.12.2016, failing which, it is made clear that the Petition shall stand dismissed automatically without any further reference to this Court.

10. In fine, the Crl.M.P.No.12659 of 2016 is ordered, in above terms.

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