

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-47637-2024 in/and CRM-A-1580-2024

Decided on 03.02.2025

Pramod Kumar

... Petitioner

VS.

M/s Global Health P.Ltd. & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Munish Gulati, Advocate for the petitioner

Sandeep Moudgil, J.

CRM-47637-2024

Application has been filed under Section 5 of Limitation Act seeking condonation of delay of 928 days in approaching this Court for grant of leave to appeal on the ground that the applicant had filed quashing petitions under Section 482 CrPC, however, vide order dated 15.07.2024 (Annexure A7) passed in CRM-M-47686-2021, this Court dismissed the said petition as not maintainable granting liberty to the applicant to file appeal under Section 378 CrPC against the order of acquittal.

For the reasons mentioned in the application, the same is allowed and the delay of 928 days, in the facts and circumstances of the case, is hereby condoned.

Main case

(1). This application filed under Section 378(4) CrPC/419(4) of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) for grant of leave to file appeal against the judgment and order dated 02.03.2020 passed by JMIC, Gurugram vide which the case bearing No.57 of 2013 "Pramod Kumar vs.

Global Health P.Ltd.” has been dismissed in default for want of prosecution for non-appearance of the advocate/complainant on the date fixed i.e. 02.02.2020.

(2). Learned counsel for the applicant submits that the trial court erred in passing the impugned order inasmuch as the applicant/complainant had consistently appeared on all dates from 22.03.2024 till 01.02.2020 except on 02.03.2020. He submits the petitioner filed a complaint dated 18.05.2013 against the respondent for the gross negligence in discharge their professional duties/service leading to the death of his wife on account of wrong and unwanted treatment by the doctors of the respondent.

(3). It is averred that on the same date i.e. on 02.03.2020 the counsel for the complainant, namely, Rajiv Yadav had appeared before the trial court at around 3.40 pm, however, he was informed that the matter has been dismissed in default in spite of the fact that the trial court was statedly informed that his counsel would be appearing post-lunch. He also submits that the complainant himself was present in the court premises throughout the court working hours.

(4). Taking into consideration the totality of the circumstances, the judgment/order dated 02.03.2020 is hereby set aside and the matter is remanded to the trial court to decide the same afresh on merits and in accordance with law by giving adequate opportunities to the parties to lead their evidence.

(5). Disposed of accordingly.

03.02.2025

V.Vishal

1. Whether speaking/reasoned?

2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No

Yes/No