



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

253

**CRM-A-1383-2023 (O&M)
DATE OF DECISION: 07.05.2025**

RADHEY SHYAM

.....APPLICANT/APPELLANT

VERSUS

SANDEEP SHARMA @ MATKANIA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Jagjeet Beniwal, Advocate
for the applicant/appellant

SANDEEP MOUDGIL, J

1. This appeal has been filed, along with an application under Section 5 of the Limitation Act seeking condonation of delay of 1528 days in filing the appeal, against the judgment dated 06.06.2017, passed by Addl. Chief Judicial Magistrate, Bhiwani.

2. Learned counsel for the appellant submits that the delay caused in filing the present appeal is neither intentional nor wilful but has occurred due to the fact that the lower Court counsel filed a revision petition before the Additional District & Sessions Judge, Bhiwani against the judgment of acquittal which was not maintainable and the same was to be filed before the High Court in criminal appeal.



3. Having heard learned counsel for the applicant/appellant at and going through the case file, this Court is of the considered opinion that there is no illegality or infirmity in the judgment passed by the trial court.

4. Learned counsel has given no convincing explanation for the delay of 1528 days in filing of the instant appeal.

5. It is to be borne in mind that the power given to the Court under [Section 5](#) of the Limitation Act to condone the delay has to be exercised in the way in which judicial power and discretion ought to be exercised upon principles which are well understood and delay in filing an appeal ought not to be excused unless there are special circumstances. While dealing with an application under Section 5 of the Limitations Act, the Courts are always influenced by the considerations whether the extensions of the period of the limitation is likely to affect the rights which have come to vest in the opposite party with a efflux of time. When the time for filing an appeal has once passed, a very valuable right stands accrued in favour of the other party.

6. Thus, an order of acquittal should not be disturbed in appeal under section 378 of Cr.P.C. unless it is perverse or unreasonable. There must exist very strong and compelling reasons in order to interfere with the same. Findings of fact recorded by a Court can be held to be perverse, if the same have been arrived at by ignoring or excluding relevant materials on record or by taking into consideration irrelevant/inadmissible materials or if they are against the weight of evidence or if they suffer from the vice of irrationality.

7. Keeping in view the discussions made hereinabove and backdrop of facts and circumstances, no ground, much less sufficient and cogent, has



been made out by the applicant/appellant for the purpose of condonation of delay of 1528 days in filing the appeal.

8. Application stands dismissed.

9. In view of the fact that the application seeking condonation of delay of 1528 days in filing the present appeal is dismissed, hence, there is no ground to entertain the instant appeal. Accordingly, the same is also dismissed.

07.05.2025
anuradha (a)

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether Reportable : *Yes/No*