

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Acquittal Appeal No.328/2021

Date: _____ Order with signature of judge(s) _____

1. For hearing of M.A No. 6209 of 2021
2. For hearing of main case.

13-05-2025

Mr. Ameeruddin, Advocate for the appellant.
Mr. Muhammad Mohsin Mangi, Asstt. P.G Sindh

Khalid Hussain Shahani, J:- This order disposes of an application bearing M.A No.6209/2021 filed under Section 5 of the Limitation Act, 1908, seeking condonation of delay in filing a criminal appeal against acquittal.

2. The application is accompanied by a supporting affidavit and was argued by the learned counsel for the appellant. The main ground urged is that the appellant was at Sukkur attending to his elder brother, who was suffering from kidney failure. It is further contended that his previous counsel did not intimate him about the judgment dated 21.04.2021. The appellant asserts that upon returning to Karachi, he contacted his counsel, who informed him about the order, whereupon he applied for a certified copy on 28.05.2021 and obtained it on 29.05.2021. Subsequently, the appeal was filed on 04.06.2021. Learned counsel reiterated these grounds during oral submissions.

3. Conversely, learned Deputy Prosecutor General for the State opposed the application, submitting that the appeal is clearly time-barred by more than 10 days, and the appellant has failed to show any plausible or sufficient cause for the delay. He argued that the reasons put forth are unsubstantiated and fail to satisfy the requirements of Section 5 of the Limitation Act.

4. The scope and object of Section 5 of the Limitation Act is to enable a party to seek condonation of delay if “*sufficient cause*” is shown for not filing the appeal within the prescribed limitation period. The courts, while considering such applications, are required to examine whether the cause

shown was reasonable, bona fide, and not tainted with negligence or inaction, and whether the explanation accounts for each day of delay.

5. In the instant case, the appellant asserts that he was away at Sukkur due to the critical illness of his elder brother. However, neither any travel document, nor any medical certificate, or supporting material has been produced to substantiate this claim. Mere assertions without documentary support do not inspire confidence, particularly when the cause must be established to the satisfaction of the Court.

6. As regards the contention that the previous counsel did not inform the appellant about the pronouncement of the judgment, again no material has been placed on record to support this. There is also no explanation offered as to why no complaint or action was taken against the said counsel if indeed he failed in his professional obligation.

7. It is by now settled law that every day of delay must be explained with specificity, and vague or general assertions are insufficient. The Honorable Apex Courts in number of cases have been pleased to emphasize the need for strict compliance with the statutory period and the duty of the appellant to furnish a satisfactory explanation.

8. In the present case, even if the period spent in obtaining the certified copy is excluded, the appeal was still filed after 12 days of delay, for which no cogent and reliable justification has been furnished. The application falls short of meeting the threshold of “sufficient cause” within the meaning of Section 5 of the Limitation Act.

9. In view of the above discussion, the appellant has failed to establish any valid, convincing, or bona fide ground for condonation of delay. The application appears to be a result of negligence rather than any unavoidable circumstance. Consequently, the application bearing M.A. No.6209/2021 under Section 5 of the Limitation Act is hereby dismissed along with main appeal in *limine*.

J U D G E