

ITEM NO.46

COURT NO.3

SECTION IIB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

PETITION FOR SPECIAL LEAVE TO APPEAL (CRIMINAL) NO.(S)...../2017
DIARY NO(S). 26415/2017
(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 17-04-2012
IN CRLR NO. 2807/2011 PASSED BY THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH)

VINOD KUMAR

PETITIONER(S)

VERSUS

STATE OF HARYANA

RESPONDENT(S)

(IA NO.87750/2017-CONDONATION OF DELAY IN FILING)

Date : 18-09-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s)

Mr. Harikesh Singh, Adv.

Mr. Satyendra Kumar, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The accused petitioner had been convicted under Section 377 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for three years by the judgment and order dated 15th January, 2010 passed by the learned Additional Chief Judicial Magistrate, Jind. The appeal against the said order was dismissed by the learned Additional Sessions Judge, Jind by judgment and

order dated 29th September, 2011. Aggrieved, the accused petitioner moved the High Court by filing Criminal Revision No.2807 of 2011 which revision has also been dismissed by the High Court by order dated 17th April, 2012. Aggrieved, the present Special Leave Petition has been filed along with application for condonation of 1864 days' delay in filing the present Special Leave Petition.

In the application seeking condonation of delay the accused petitioner, inter alia, has mentioned that earlier he had engaged an Advocate to file a Special Leave Petition against the order of the High Court dated 17th April, 2012 and, in fact, he had been informed by the learned counsel that a Special Leave Petition had been filed which has been allowed by this Court by judgment and order dated 29th September, 2014 and the conviction of the accused petitioner has been set aside by this Court. According to the petitioner, he was even furnished with a copy of the aforesaid judgment on the covering letter of the learned counsel dated 8th October, 2014, which documents are available at pages 51 to 58 of the Special Leave Petition Paper Book.

In the application for condonation of delay the accused petitioner has further submitted that on further verification the aforesaid facts communicated to him by his earlier counsel including the judgment and order of this Court dated 29th September, 2014 was found to be false and fabricated and hence the present approach.

Having taken into account aforesaid facts stated by the accused petitioner in the application for condonation of delay we are of the view that at this stage before entering into the merits of the conviction (the accused petitioner has already served the period of sentence) the Registry of this Court is to be directed to lay the following information before the Court:

(i) Whether any Special Leave Petition against the order of the High Court of Punjab and Haryana dated 17th April, 2012 in Criminal Revision No.2807 of 2011 had been filed at any earlier point of time;

(ii) Whether the judgment and order dated 29th September, 2014 available at pages 52 to 58 of the SLP Paper Book exists in the record of this Court; and

(iii) The records of Special Leave Petition (Criminal) No.15809 of 2014 stated to have been filed on behalf of the accused petitioner against the very same impugned order dated 17th April, 2012.

The aforesaid information be laid before the Court on 4th October, 2017.

List the matter on 4th October, 2017.

[VINOD LAKHINA]

AR-cum-PS

[ASHA SONI]

BRANCH OFFICER