

S.C. Prasanna Kumar Vs The State

Court: Karnataka High Court

Date of Decision: Aug. 30, 2013

Acts Referred: Limitation Act, 1963 " Section 5
Penal Code, 1860 (IPC) " Section 392

Hon'ble Judges: N. Ananda, J

Bench: Single Bench

Advocate: Hanumanthappa B. Haravi Gowdar, for M/s. Mitra Associates, for the Appellant; Vijayakumar Majage, HCGP, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

N. Ananda, J.

The petitioner was convicted by trial court for an offence punishable u/s 392 IPC. The petitioner was before I-appellate court in Criminal Appeal No. 124/2005. The appeal was dismissed on merits in terms of judgment dated 15.07.2006. The instant petition was

filed on 28.02.2012. There is inordinate delay of 1967 days in filing the revision petition. In the affidavit filed in support of application (IA No.

1/2012) filed u/s 5 of the Limitation Act, petitioner has pleaded that he was not aware of the judgment made by I-appellate court. The petitioner

was also ill. The petitioner had undergone imprisonment for a period of one year and ten months. The averments of affidavit do not constitute

sufficient cause to condone inordinate delay of 1967 days in filing the revision petition.

2. In a decision reported in *Lanka Venkateswarlu (D) by L.Rs. Vs. State of A.P. and Others*, the Supreme Court has held:

28. We are at a loss to fathom any logic or rationale, which could have impelled the High Court to condone the delay after holding the same to be

unjustifiable. The concepts such as "liberal approach", "justice oriented approach", "substantial justice" can not be employed to jettison the

substantial law of limitation. Especially, in cases where the Court concludes that there is no justification for the delay. In our opinion, the approach

adopted by the High Court tends to show the absence of judicial balance and restraint, which a Judge is required to maintain whilst adjudicating

any lis between the parties. We are rather pained to notice that in this case, not being satisfied with the use of mere intemperate language, the High

Court resorted to blatant sarcasms.

29. The use of unduly strong intemperate or extravagant language in a judgment has been repeatedly disapproved by this Court in a number of

cases. Whilst considering applications for condonation of delay u/s 5 of the Limitation Act, the Courts do not enjoy unlimited and unbridled

discretionary powers. All discretionary powers, especially judicial powers, have to be exercised within reasonable bounds, known to the law. The

discretion has to be exercised in a systematic manner informed by reason. Whims or fancies; prejudices or predilections can not and should not

form the basis of exercising discretionary powers.

In the case on hand, petitioner has failed to establish sufficient cause to condone inordinate delay of 1967 days in filing the revision petition.

Therefore, IA No. 1/2012 for condonation of delay, as also the revision petition are dismissed.