

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

H. C. A. No. 178 of 2021

Date	Order with Signature of Judge
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1. For hearing of CMA No.1832/2021 (U/S 5 of the Limitation Act) :
2. For hearing of main case :

**06.10.2023** :

Mr. Badar Alam, Advocate for the appellant.  
Mr. Abdul Jalil Zubedi, A.A.G. Sindh.

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Through the listed application under Section 5 of the Limitation Act, 1908, the appellant has prayed that the delay of four (04) days in filing the instant appeal be condoned. The application is supported by the affidavit of the appellant's attorney Zafar Riazuddin Bari. The sole ground on which the delay is sought to be condoned is that due to some symptoms, the attorney had been advised by his doctor to observe quarantine during the Covid-19 pandemic ; and, his counsel had advised him that he will not be permitted to enter the premises of this Court due to such symptoms. In support of his contention, the attorney has filed a medical certificate dated 28.08.2001 purportedly issued to him. It is significant to note that the name of the attorney is not mentioned in the medical certificate filed and relied upon by him. The period / dates during which the attorney was purportedly under quarantine have not been disclosed by him. Moreover, the application and its supporting affidavit are silent as to why the appellant was unable to present the appeal within time if his attorney was observing quarantine. The appellant has also not filed his own affidavit explaining his disability for filing the appeal within time. Therefore, the burden to explain the delay of each and every day has not been discharged by the appellant and or his attorney.

In the above circumstances, the delay cannot be condoned in view of *Imtiaz Ali V/S Atta Muhammad and another, PLD 2008 S.C. 462*, wherein it was held by the Hon'ble Supreme Court that the appeal, having been filed after one day of the prescribed period of limitation, had created valuable right in favour of the respondents, and no sufficient cause was found for filing the appeal beyond the period of limitation. Even the delay of only one day was not condoned by the Hon'ble Supreme Court in the cited case. Accordingly, the listed application is dismissed and resultantly the appeal is dismissed with no order as to costs.

JUDGE

JUDGE