

IN THE HIGH COURT OF JUDICATURE AT PATNA

I.A. No. 2576 of 2014

IN

SLA No.36 of 2014

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1. Ejaz Ahmad Son of Late Md. Zakaria Resident of Village- Lahsania,
P.S.- Patahi (O.P. Pachpakri), District- East Champaran.

.... Appellant/s

Versus

1. The State of Bihar
2. Sk. Jamaluddin Son of Sk. Md. Zahir Hussain
3. Md. Shakeel Son of Bal Hussain
4. Jamil Akhtar @ Aklu Son of Bal Hussain
5. Shekh Mazhar Son of Moti Hussain
6. Wasi Akhtar Son of Bal Hussain
7. Jawad Hussain Son of Jamil Akhtar
8. Nek Mohammad Son of Abdul Rahim
9. Aas Mohammad @ Beldar Son of Abdul Rahim
10. Md. Alam Son of Bal Hussain
11. Shekh Manzar Son of Moti Hussain
12. Akhtar Hussain Son of Moti Hussain
13. Shah Mohammad @ Jumman Son of Moti Hussain
14. Wazir @ Dahaur Son of Md. Hussain
15. Shabbir Son of Wasi Akhtar
16. Kalimullah Son of Jaseem All are resident of village Lahsani, P.S.
Patahi (O.P. Pach Pakri), District- East Champaran.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Anisur Rahman

For the Respondent/s : Mr. Z.Hoda (App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 09-02-2015

This application under section 5 of the Limitation

Act has been filed for condoning the delay of 132 days in filing
Special Leave Application against the judgment of acquittal dated
28th February, 2014 passed in Complaint Case vide C.R.Case
No.275 of 2001 by the learned Judicial Magistrate 1st Class,
Motihari.



The incident of occurrence had taken place on 13th May, 2001 and after holding enquiry, finding prima facie case, cognizance was taken for the offences punishable under sections 147, 148, 427 and 379 of the Indian Penal Code in the aforesaid complaint case. The court below had framed charges for the offences punishable under sections 147, 148, 427 and 379 of the Indian Penal Code against respondent nos. 2 to 16. After holding trial, they were acquitted of the charges vide impugned judgment dated 28th February, 2014. The present application for leave to appeal has been filed on 11th December, 2014.

Learned counsel for the petitioner has submitted that after the judgment was passed, the complainant (petitioner) came to Patna and contacted his advocate. He advised him to procure and bring some relevant documents in which some time was consumed, as result of which the delay was caused in filing the leave application.

On the facts and in the circumstances of the case, I find that no sufficient cause has been assigned in the petition for not preferring the appeal or making the application within time. A vague statement has been made in paragraph 3 of the application that the petitioner came to Patna and contacted his advocate, who advised him to procure and bring some relevant documents in

which some time was consumed. Such statement cannot be held to be sufficient for condoning the delay. The petitioner has not stated as to when he applied for certified copy of the documents in the court below and when the relevant documents were supplied to him. A deliberate inaction or negligence on the part of the petitioner in filing the appeal cannot be held to be a sufficient cause for not preferring the appeal in time.

In that view of the matter, the application for condonation of delay is dismissed. As a consequence thereof, the Special Leave Application No.36 of 2014 is also dismissed.

(Ashwani Kumar Singh, J)

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