

IN THE HIGH COURT OF TRIPURA
AGARTALA

CRL.REV.P. NO.20 OF 2015

Md. Horan Miah @ Horon Miah,
son of late Sahid Miah,
resident of Chikanchara,
P.O. & P.S. Bishramganj,
District : Sipahijala

..... Petitioner

– Vs –

The State of Tripura

.....Respondent

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioner : Mr. S. Lodh, Advocate

For the respondent : Mr. R.C. Debnath, Addl. PP.

Date of hearing & order : 09.04.2015

Whether fit for reporting :

Yes	No
	√

ORDER (ORAL)

Heard Mr. S. Lodh, learned counsel appearing for the petitioner as well as Mr. R.C. Debnath, learned Addl. Public Prosecutor appearing for the state.

2. Being aggrieved by the order dated 03.03.2015 delivered in Criminal Appeal No.06(1)/15 by the Sessions Judge, Gomati District, Udaipur, Tripura, this petition under Section 397 read with Section 401 of the Cr.P.C. has been preferred.

3. Mr. Lodh, learned counsel appearing for the petitioner, has submitted that the petitioner has been convicted by the judgment dated 03.03.2014 delivered in G.R. No.517/2010 by the Chief Judicial Magistrate, South Tripura, Udaipur, under Section 498A of the IPC and sentenced to suffer rigorous imprisonment for one year and to pay fine of ₹5,000, with default imprisonment.

4. As the appeal filed by the petitioner under Section 374(3) of the Cr.P.C. was not presented within the prescribed period of limitation and it was delayed by 330 days, the petitioner filed a separate petition under Section 5 of the Limitation Act for condoning the said delay on assigning the causes, which include that his father was on prolonged illness and subsequently he died. For that purpose and also for the bereavement, he could not prefer the appeal in time.

5. By the impugned order, learned Sessions Judge, Gomati District, Udaipur, Tripura, has observed that :

“Illness of the father is not reasonable ground for filing the appeal after 330 days.”

Solely based on the said reasoning, the application filed for condoning the delay was rejected and, as consequence thereof, the appeal was also dismissed.

6. On query, Mr. Lodh, learned counsel appearing for the petitioner, has submitted that application was not registered separately for considering the prayer for condoning the delay and the order has been passed in the main appeal.

7. Without having considered the technical aspect relating with this matter, this court is of the opinion that when the accused questioned the legality of the conviction by filing an appeal and the appeal is delayed for certain causes, usually the appellate court does not insist for strict explanations and extend fair amount of latitude so that before the person suffers the sentence in terms of the conviction there can be another opportunity for him for judicial scrutiny. The reasons as assigned by the Sessions Judge may be technically very fair, but having regard to the ends of substantial justice, this court considers it appropriate to condone the said delay.

8. In the result, the delay is condoned and the impugned order is quashed and set aside.

9. As this court has condoned the delay, the appeal be admitted and heard by the Sessions Judge, Gomati Judicial District, Udaipur, in accordance with law.

Accordingly, this petition stands disposed of.

JUDGE