

Party Name : GOURI DAS & ORS Vs ANJAN DEBNATH & ANR

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA

This is an application for condoning 246 days delay in filing the appeal.

On 19.06.2015 after perusing the application this Court had passed the following order.

"19.6.2015

This is another case where in an application for condonation of delay blame is being late at the door of the counsel who was handling the case in the lower Court.

In Tripura I am finding that in almost every case where there is delay and a new counsel is engaged then the only explanation given is that the earlier counsel did not inform the litigant about the fate of the case.

If I am to allow this application I would necessarily have to comment on the conduct of the counsel. Therefore, notice is issued to Advocate Sri Bidyut Ghosh, returnable for 30th July, 2015. In addition to the notice issued to the respondents he may file his affidavit controverting or supporting the averments made in the petition."

Thereafter, the learned counsel Shri Bidyut Ghosh filed an affidavit denying all the allegations made in the application. A counter affidavit was filed by the claimant reiterating her allegations and thereafter, Shri Bidyut Ghosh has filed another affidavit.

Basically the allegation of the claimant is that she had engaged Shri Ghosh as her counsel and he did not inform her about the result of the case and hence, the delay in filing the application. I had thought it proper to issue notice to Shri Bidyut Ghosh before passing any orders on this application because I would have had to give a finding one way or the other in the matter. I have perused the copies of the Court orders produced by the claimant. It shows that the case was fixed for judgment on 04.09.2013. On that date the learned Judge did not pronounce judgment because he found that the petitioner had not produced certain documents with regard to the police investigation conducted in respect of the Amtali Police Station Case No.112 of 110 except the copy of the FIR and complaint. He, therefore, directed the claimant to produce other documents to ascertain the cause of death of the claimant.

Thereafter, the case was fixed before the National Lok Adalat on 16.05.2014 and fixed before the Court on various dates i.e. 17.01.2014, 26.03.2014, 29.04.2014, 07.05.2014 and 16.05.2014. The judgment was finally pronounced on 16.05.2014. Mr. Bidyut Ghosh did not appear on any of these dates.

This Court is not giving any final verdict on the conduct of Mr. Bidyut Ghosh because that is the job of the Bar Council to do. However, from the material which is placed on record it cannot be said that the claimants are at fault and the version of the claimant that she was not informed of the result is believable on account of the fact that Mr. Bidyut Ghosh had not appeared on any of these dates and may have been unaware of the judgment.

I am not getting into the other unsavory aspect of the case and the manner in which the written complaint filed by the complainant has been dealt with by the Secretary of the Tripura Bar Association. All that this Court would like to state is that, if any, person makes a complaint to any office bearer of the Bar Association then a response should be sent to the complainant by the Bar Association, who should be informed what action, if any, has been taken on his complaint. If any action has to be taken then the complaint should be forwarded in writing to the member of the Bar Association against whom the complaint is lodged. All these things should be done in writing and not by oral orders.

It is made clear that this Court has not gone into the issue with regard to the conduct of Mr. Bidyut Ghosh and that is a question which will be decided by the appropriate authority if the complainant decides to proceed with the matter.

However, as far as the application for condonation of delay is concerned, there are grounds made out for condoning the delay and, accordingly, the delay is condoned.

A copy of this order shall be sent to the President as well as the Secretary of the Tripura Bar Association.