

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Cr.M.P. No.260 of 2015

Dimpi Ijardar **Verses** Ashok Kumar Patel

		Registry
05.8.2015	Shri Raghavendra Verma, counsel for the petitioner/appellant. Shri HS Patel, counsel for the respondent. Heard on IA No.01, application for condonation of delay in filing the appeal. The instant Cr.M.P. followed by the acquittal appeal has been preferred after 259 days of its limitation. The respondent has filed reply on IA No.01 on 05.8.15. Learned counsel for the petitioner/appellant submits that by misconception, the complainant filed criminal appeal No.330/2014 before the Sessions Court, Raigarh. The First Additional Sessions Judge, Raigarh vide its judgment dated 12.12.2014 dismissed the appeal filed under the proviso of Section 372 of the Code of Criminal Procedure, 1973 (for short 'the Code') and held that the plaintiff may file appeal under Section 378(4) of the Code. Thereafter the complainant/applicant/appellant preferred the instant Cr.M.P. followed by acquittal appeal. By filing IA No.01, it is prayed that the applicant/appellant wrongly prosecuted the matter before the wrong forum as he was not aware of the legal procedure of the case, hence he is a bonafide litigant. Therefore, the delay in filing the case may be condoned. In reply, learned counsel for the respondent submitted that the appeal is liable for dismissal on the ground of limitation. The applicant has deliberately chosen the wrong forum and with inordinate delay he has filed the instant appeal, hence, the delay need not be condoned and the application may be dismissed. On due consideration and after perusal of the judgment dated 12.12.14 passed in Criminal Appeal No.330/14, this Court is of the	

	view that delay in filing the instant Cr.M.P. followed by the acquittal appeal be condoned. Consequently, IA No.01 is allowed. Delay of 259 days in filing the Cr.M.P. followed by acquittal appeal is hereby condoned. Also heard the Cr.M.P. for leave to appeal. On due consideration, this is a fit case where leave to appeal be granted. Consequently, the instant Cr.M.P. is allowed and leave to appeal is granted. The Registry is directed to register the case under the head of acquittal appeal. Also heard on admission. The appeal is admitted for consideration. Record is available. List this matter for final hearing in due course. Sd/- (Chandra Bhushan Bajpai) Judge	
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