

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 541 of 2013.**

State of Chattisgarh, Through the District Magistrate, District Mahasamund,
Chhattisgarh.

---- Applicant**Versus**

Dolchand Patel, S/o Sitaram Patel, aged about 30 years, R/o Kanwarpali, P.S.
Saraipali, District Mahasamund, Chhattisgarh.

---- Respondent

For Applicant/State : Shri B.Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice**Hon'ble Shri P. Sam Koshy, J.****Order on Board****Per Navin Sinha, Chief Justice****12/08/2015**

1. The present application has been filed seeking leave to appeal against the order dated 30.10.2012 passed by the First Additional Sessions Judge, Mahasamund in Sessions Trial No. 24 of 2012 convicting the Respondent under Section 456 IPC only and acquitting him of the charge under Sections 366, 511, 506 IPC.
2. The application for leave to appeal was filed on 12.6.2013 barred by delay of 135 days and was not even accompanied by the certified copy of the order of the Trial Court. The certified copy has then been brought on record on 4.6.2015. The folio annexed to the certified copy shows that it was applied for on 27.5.2015, nearly two years after filing of the application and was delivered on 29.5.2015 itself.
3. An appeal may lie if the Respondent has been acquitted of some of the charges, but not at the leisure of the contesting party. A valuable right accrued to the Respondent when he has stood acquitted of other charges. Indolence and lethargy of the State cannot be condoned on the plea simplicitor that there

has been miscarriage of justice as the Respondent has been acquitted of some of the charges after a full-fledged trial.

4. Not only the initial application for leave to appeal itself was barred by 135 days but it was also not presented with a certified copy of the Trial Court judgment and the limitation therefore would run till it was subsequently filed on 4.6.2015 making the delay extraordinarily long. Even the original application for condoning 135 days delay only talks of departmental formalities and working of the government. File pushing has never been considered sufficient justification for condonation of delay. It is for the Applicant to do some soul searching why such extraordinary delay has taken place in its portals in coming to the Court. It is expected that it shall be examined and acted upon appropriately.

5. Since we have declined to condone the delay, the application itself fails and is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE