

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 999 of 2015**

- Nasibuddin S/o Salimuddin Aged About 33 Years R/o Ghosiyan Mohalla, Police Station Sardhana, District - Merath (U.P.)

---- Appellant**Versus**

- State Of Chhattisgarh Through : Station House Officer, Police Station Purani Bhilai, District - Durg (Chhattisgarh).

---- Respondent

For appellant
For Respondent

: Mr. Y. C. Sharma, Advocate.
: Mr. C.S. Patel, GA with Mr. Sanjiv Agrawal, PL.

Judgment**02/09/2015**

1. Heard on I.A. No. 1/15 for condonation of delay in filing the instant criminal appeal as the same has been preferred after 1417 days of its limitation.
2. Learned counsel for the appellant submitted that appellant was in jail since 3-1-2007. He was under the impression that against the impugned judgment, his family members have filed criminal appeal. When he asked for filing of criminal appeal then he came to know that no appeal has been filed for him. He is in jail since 8 years and 8 months thereby completed entire jail sentence. Due to confusion and misunderstanding, delay has occurred in filing the appeal. The same may be condoned.
3. On the other hand, learned counsel for the State opposed I.A. No. 1/15 and submitted that there is inordinate delay in filing the appeal. The appellant has failed to justify the delay satisfactorily. Hence the application may be dismissed.
4. Considering the fact that the appellant has served entire sentence and he could not file the appeal under the impression that his family members have filed appeal for him, I am not inclined to dismiss the appeal on limitation. Therefore I.A. No. 1/15 is allowed. Delay in filing the appeal is condoned.
5. Heard on admission. The appeal is admitted for consideration.
6. Learned counsel for the appellant submits that in the original record of the Sessions Case No. 78/2007 (State -v- Vijay Singh and six others), date of judgment i.e. 15-7-2011 is available for hearing on Cr.A. No. 564/11, 576/11 and 653/11. Hence the matter may be disposed of finally.

7. Heard finally.
8. Learned counsel for the appellant submits that the appellant is in custody since 3-1-2007 till date as per certificate prepared by the trial Court under Section 428 of the Cr.P.C. regarding period of detention for set off. Hence he does not want to contest the instant appeal as the appellant has served entire sentence. The appeal may be dismissed as not pressed.
9. Also heard learned counsel for the State.
10. Present appellant has been convicted for the offence under Sections 224, 328, 120B of the Indian Penal Code and sentenced RI for two years and RI for 7 years along with fine sentence of Rs. 500/- with a direction to run both the substantive jail sentences concurrently and the period already undergone as under-trial prisoner shall be set off for sentence awarded.
11. Also perused the certificate prepared by the trial Court under Section 428 of the Code of Criminal Procedure regarding period of detention. A perusal of certificate shows that the appellant is in jail since 3-1-2007 till the judgment passed by the trial Court dated 15-7-2011. The appellant continued to remain in jail even after pronouncement of judgment and during pendency of appeal. It goes to show that the appellant has served entire jail sentence. Even other wise the appellant is not contesting the appeal on its merit.
12. Even from perusal of entire evidence I do not find any illegality or impropriety committed by the trial Court in convicting and sentencing the appellant.
13. Consequently, I do not see any scope for interference in the impugned judgment.
14. Consequently, the appeal is hereby dismissed.

Sd/-

Chandra Bhushan Bajpai
Judge