

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 106 of 2015**

- Kannu Pasi S/o Shri R.P.Pasi Aged About 41 Years R/o Lal Khadan, Near Primary School, P.S. Torwa, District Bilaspur, Chhattisgarh

---- Appellant**Versus**

- Rajesh Chandra Bhattacharji & Another S/o Late B.C.Bhattacharji Aged About 45 Years R/o Ramdas Nagar, Tikarapara, P.S. City Kotwali, District Bilaspur, Chhattisgarh
- State Of Chhattisgarh Through: P.S. Aadim Jati Kalyan, Bilaspur, Chhattisgarh

---- Respondent

For appellants	: None.
For Respondent No.2/State	: Mr. Roshan Dubey, Panel Lawyer
For Respondent No. 1	: Not noticed.

Judgment**15/09/2015**

1. On 10-8-2015 appellant was directed to file an application for condonation of delay in the light of the order passed by Hon'ble Full Bench of this Court in Acquittal Appeal No. 121/2015 (Smt. Ahilya Bai Satnami -v- State of Chhattisgarh and others). While answering the question referred by Single Bench of this Court that "Whether the period of limitation prescribed for filing an appeal under Section 377 or 378 of the Code of Criminal Procedure would also apply to an appeal preferred by the victim under proviso to Section 372 of the Code of Criminal Procedure", the Hon'ble Full Bench held as under:-

"..... Nevertheless, the appeal is required to be filed by the victim within a reasonable period to be reckoned from the date the victim acquires knowledge of the order of acquittal. What would be the reasonable period, should depend upon the facts and circumstances of every case....."
2. On 24-8-2015 none represented the appellant when the case was taken up for hearing even on second round. As per office note, instant acquittal appeal has been filed after 97 days from the date of judgment. Appellant was again directed to file application for condonation of delay to examine reasonableness of the period to be reckoned from the date the victim

acquired knowledge of the order of acquittal. Today also the appellant is not represented when the case is taken up for hearing.

3. The appellant has not filed any application showing reasonableness of the period and the date of knowledge regarding judgment passed by the trial Court. The instant acquittal appeal has been preferred under the provisions of Section 372 of the Code of Criminal Procedure (in brevity 'Code') after 97 days from the date of judgment. Fourteen days computed for application for certified copy if deducted then the period remained is 83 days. To examine the reasonableness for the period to be reckoned from the date the victim acquired knowledge from the order of acquittal, no application is filed by the appellant despite two opportunities. Though Article 115-B of the Limitation Act is not directly applicable for answer -A, but to examine the reasonableness of the period the same has to be taken account in which the period is of 60 days. Therefore, the instant acquittal appeal is hypothetically held to be barred by limitation of 23 days. Since there is no application for condonation of delay explaining the reasonableness for the period to be reckoned from the date the victim acquires knowledge, the instant second appeal is held as time barred. In absence of any application for condonation of such unexplained delay, the instant appeal cannot be held to be a duly constituted acquittal appeal.
4. Consequently, the instant acquittal appeal is dismissed as barred by limitation in the light of above order passed by Hon'ble Full Bench.

Sd/-
Chandra Bhushan Bajpai
Judge