

IN THE HIGH COURT OF JUDICATURE AT PATNA

SLA No.11 of 2016

In

I.A. No.630 of 2016

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Brahamdeo Prasad son of Late Brikchha Sah, resident of village-Math Lohiar, P.S.-Harsidhi, District- East Champaran Appellant/s

Versus

1.The State of Bihar

2. Jitendra Thakur son of Kamal Thakur

3. Prabhawati Devi wife of Mokhtar Prasad

Respondents no.2 and 3 are residents of village-Math Lohiar, P.S.-Harsidhi, District- East Champaran Respondent/s

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Appearance :

For the Appellant/s : Mr. Sunil Kumar No.III

For the Respondent/s : Mr. Sujit Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 16-03-2016

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By way of the present interlocutory application preferred under section 5 of the Indian Limitation Act, the petitioner seeks condonation of delay of one year, eight months and twenty one days caused in filing the application under section 378(4) of the Code of Criminal Procedure (for short “CrPC”) seeking Special Leave to Appeal against the judgment dated 24.5.2014 passed by the learned Judicial Magistrate, 1st Class, Motihari, East Champaran in Complaint Case No.1094 of 2002 whereby and where under the respondents no.2 and 3 have been acquitted of the charges under sections 380, 494 and 498 of the Indian Penal Code.

2. It has been contended by the learned counsel for the petitioner that against the impugned judgment dated 24.5.2014, a miscellaneous case was filed by the petitioner in the court of

Collector, Motihari for preferring criminal appeal before this court but no decision has been taken in the matter by the Collector, Motihari so far. He has further contended that since the petitioner was pursuing his remedy before the Collector, Motihari, the appeal could not be filed in time. According to him, the delay caused was neither deliberate nor willful as the petitioner was pursuing his remedy before another forum.

3. In my view, the cause shown by the petitioner for the inordinate delay in filing the application is not satisfactory. There was neither any unavoidable nor compelling reason which prevented the appellant to approach the court in time.

4. In that view of the matter, the interlocutory application is dismissed. Consequently, SLA No.11 of 2016, is also dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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