

IN THE HIGH COURT OF JUDICATURE AT PATNA

SLA No.40 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- SEKHPURA

Bachchi Devi, wife of Ramashish Singh, Resident of village -Diha, P.S.-Ariari
District- Sheikhpura.

.... Appellant/s

Versus

1. The State of Bihar.
2. Sudhir Kumar, Son of Ram Balak Singh
3. Surendra Prasad, son of Ram Ram Badan Singh @ Ramdeo Singh
4. Subodh Kumar, Son of Shaligram Singh
5. Nabin Singh, son of Shaligram Singh
6. Prabin Singh, son of Ram Badan Singh
7. Sanjit Kumar, son of Bidyadhar Singh
Respondents 2 to 7 are resident of village -Diha P.S.- Ariari, District-Sheikhpura
.... Respondent/s

Appearance :

For the Appellant/s : Mr. Pankaj Kumar, Advocate

For the Respondent/s : Mr. Z. Hoda, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 07-01-2016

I.A. No. 2191 of 2015 in S.L.A. No. 40 of 2015

The present interlocutory application has been filed on behalf of the appellant for condoning the delay in filing the special leave application against the judgment dated 27.05.2013/28.05.2013 passed by Sri Arun Kumar, learned Judicial Magistrate-1st Class, Sheikhpura in Compliant Case No.; 94-C/2002/T.R. No. 281/2013 whereby and whereunder the learned Magistrate has acquitted the opposite parties No. 2 to 7 against whom charges were framed under Sections 147, 149, 323, 380, 451 and 504 of the Indian Penal

Code.

The limitation for filing the appeal has expired way back on 27th July, 2013, whereas the Special Leave Application No.40 of 2015 has been filed before this Court on 18th December, 2015.

It has been contended by learned counsel for the petitioner that initially under wrong advice, an appeal was filed before the learned Additional District & Sessions Judge, Sheikhpura within the stipulated period. However, the said appeal was dismissed as withdrawn vide order dated 09.04.2015. When the petitioner came to know about dismissal of the appeal, he made efforts to obtain certified copy of the impugned order and after obtaining the same, he contacted his lawyer and a Special Leave application was filed before this Court on 13th August, 2015, but since there were certain defects, ultimately, the appeal could be filed after removing those defects on 18th December, 2015. It has been further contended that there is no deliberate laches on the part of the petitioner in filing the present application and, as such, the delay caused in filing the appeal be condoned.

In my view, the explanation given by the petitioner for the delay caused in filing the S.L.A. is hopelessly barred by law of limitation. That apart, I have seen the impugned judgment passed by

the learned Magistrate. It would be evident from the findings of the learned Magistrate that witnesses have not able to bring on the charges levelled against accused persons. The witnesses examined on behalf of the complainant during trial are not consistent. They have made contradictory statements to each other in their deposition. Though, there is allegation that the accused persons indiscriminately assaulted the complainant and other family members, no injury report was brought on record during trial. The learned Magistrate, after discussing the evidence, has given clear, cogent and convincing reasons for acquitting the accused persons.

Having heard learned counsel for the petitioner and having gone through the application, I find that the explanation given by the petitioner for the delay caused in filing the appeal is not satisfactory. Furthermore, on merits also, the petitioner has not been able to make out the case for interference.

In that view of the matter, the interlocutory application for condoning the delay caused in filing the Special Leave application is dismissed. Consequently, the Special Leave Appeal No. 40 of 2015 is also dismissed

(Ashwani Kumar Singh, J.)

Sanjeet/-

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