

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Acquittal Appeal No. 5 of 2014**

Pradeep Sharaf S/o Kunj Bihari Aged About 53 Years R/o Village Bamhanideeh, Police Statoin Bamhanideeh, Civil And Revnue District Janjgir-Champa C.G.

---- Appellant**Versus**

1. State Of Chhattisgarh Through Station House Officer, Police Station- Bamhanideeh, Distt. Janjgir-Champa C.G.
2. Santosh S/o Vijay Kumar Agrawal Aged About 25 Years R/o Village - Bamhanideeh, Police Station- Bamhanideeh, Distt. Janjgir-Champa C.G.
3. Vijay Kumar S/o Late Radha Kishan Agrawal Aged About 52 Years R/o Village - Bamhanideeh, Police Station- Bamhanideeh, Distt. Janjgir-Champa C.G.
4. Subhash S/o Late Radha Kishan Agrawal Aged About 47 Years R/o Village - Bamhanideeh, Ps Bamhanideeh, Distt. Janjgir-Champa C.G.
5. Anand S/o Vijay Kumar Agrawal Aged About 21 Years R/o Village - Bamhanideeh, Ps Bamhanideeh, Distt. Janjgir-Champa C.G.

---- Respondents

For Appellant:	Shri Sushobhit Singh, Advocate
For Respondent No.1/State:	Shri Vaibhav A. Goverdhan, Panel Lawyer
For Respondents No. 2 to 5:	Shri Sanjay Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****12.07.2016**

1. Heard on I.A. No.2/2013 which is an application for condonation of delay in filing the present Acquittal Appeal.
2. The facts relevant for the adjudication of the said interlocutory application is that the Respondents No. 2 to 5 were prosecuted for the offence under Sections 294, 323 read with 34 and 506 Part-2 of IPC. The date of incident in the present case is 03.03.2008 whereby

it is said that the present Appellant and Respondents No. 2 to 5 had a fight between them causing injuries on either side. There was this filing of case and counter case on either side. The matter was put to trial vide Sessions Trial No. 172/2008 whereby the Respondents No. 2 to 5 were prosecuted for the offences under Sections 294, 323/34 and 506 Part-2 of IPC and the present Appellant was prosecuted for the offences under Sections 452, 324, 325 and 323 of IPC in Sessions Trial No. 101/2008. Sessions Trial No. 101/2008 was culminated in the conviction of the Appellant for the said offences vide order dated 08.12.2009 and against which an appeal i.e. Criminal Appeal No. 910/2009 was filed which is still pending. In the instant case the present Respondents No. 2 to 5 were acquitted from all the said charges under Sections 294, 323 read with 34 and 506 Part-2 of IPC vide order dated 08.12.2009 i.e. on the same day on which the Appellant was convicted.

3. Against the said judgment of acquittal dated 08.12.2009 the present Acquittal Appeal has been filed with a delay of 1221 days i.e. delay of almost about 4 years from the date of acquittal of Respondents No. 2 to 5. In the I.A. No. 2, the only reason assigned by the Appellant seeking for condonation of delay is that in between he has preferred a Criminal Revision and subsequently since the Criminal Revision was not maintainable, he had withdrawn the same and thereafter he has preferred the present Acquittal Appeal and in the course, the delay has occurred.

4. However, perusal of the record would show that the Criminal Revision itself was filed by the present Appellant after about 2 years from the date of acquittal and the said Revision was also dismissed

as withdrawn on 27.06.2012. Even thereafter the present Appeal has been preferred after more than 14 months from the withdrawal of the Revision Petition and that for this period also there is no satisfactory explanation what so ever provided by the Appellant that had caused the delay in the filing of the Acquittal Appeal. It is not the case of the present Appellant that he was not aware of the acquittal order passed in favour of the Respondents No. 2 to 5 more particularly when it is a case and counter case where the present Appellant has already been convicted on the same date on which the Respondents No. 2 to 5 were acquitted. In spite of that the present Appellant did not care to prefer an appeal promptly. It is the Appellant alone to be blamed for lapses that has occurred on his part particularly when substantive right has accrued in favour of the Respondents No. 2 to 5.

5. The delay in filing of the appeal thus has not been properly explained nor any bona fide reason assigned for the delay in filing of the present Appeal. In view of the above this Court is of the opinion that no good case has been made out to entertain the said application.

6. Accordingly, I.A. No. 2, seeking condonation of delay stands rejected.

7. Consequently, the Acquittal Appeal also stands rejected.

Sd/-

(P. Sam Koshy)
JUDGE