

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL MISC. PETITION NO. 1211 OF 2016

- Haricharan Dubey, S/o Ramlal Dubey, R/o Kadambari Nagar, Durg, Police Station Mohan Nagar, Tahsil, Civil and Revenue District Durg (C.G.)

... Petitioner

Versus

1. Ramkumar Gupta, S/o Chaitram Gupta, R/o Swati Singar Sadan, Patwa, Line Durg, Tahsil, Civil and Revenue District Durg (C.G.)
2. The State of Chhattisgarh, through the District Magistrate, Durg, Civil and Revenue District Durg (C.G.)

... Respondents

For Petitioner	:	Mr. Punit Ruparel, Advocate.
For Respondent-State	:	Mr. Ashish Shukla, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/11/2016

1. Heard on I.A. No.1 of 2016, which is an application for condonation of delay in filing the present petition which is barred by limitation of 387 days.
2. The present petition under Section 378(4) of CrPC has been filed by the Petitioner seeking leave to appeal against the judgment dated 21.7.2015 passed by the Second Additional Sessions Judge, Durg in Criminal Appeal No. 94 of 2013.
3. By impugned judgment of acquittal dated 21.7.2015, the Second Additional Sessions Judge, Durg has set-aside the judgment of conviction dated 29.4.2013 passed by the Judicial Magistrate First Class, Durg in Complaint Case No. 2176 of 2011 convicting the Respondent No.1 for the offence under Section 138 of the Negotiable Instruments Act and sentencing him to undergo S.I. for 3 months and to pay compensation of Rs.1,20,000/- with default stipulation.

4. A perusal of the application for condonation of delay shows that the only ground that the Petitioner has taken is that he is an ignorant person and he was not aware of the legal provisions that an acquittal appeal could also be preferred before the High Court. In addition to this ground, the Petitioner has also taken the ground that he did not have financial stability for filing the appeal. Except for these two bald averments made in the application, not a single date has been provided in the application for condonation of delay explaining on which date he obtained the copy of the impugned judgment and on which date he was able to get the certified copy of the other documents which were relevant for the filing of the petition and when did the Petitioner for the first time learnt about the availability of remedy of the filing of appeal before the High Court. In the absence of any specific details given by the Petitioner in the application for condonation of delay except for the bald and vague averments made by him, without cogent and plausible explanation this Court find it difficult to condone the delay.

5. So far as the ignorance of law is concerned, the same is settled position that the ignorance of law cannot be a defence for any person. In the instant case the ignorance all the more cannot be a ground for the reason that the Petitioner herein has been contesting the case before the two Courts below in which he has been represented through a lawyer and it is hard to believe that he must not have consulted his lawyer or the lawyer must not have advised him to prefer the application under Section 378 (4) of CrPC before the High Court.

6. Accordingly, this Court does not find any merits in the application for condonation of delay and the same being devoid of merits is rejected. Consequently, the Criminal Misc. Petition also stands dismissed.

Sd/-
(P. Sam Koshy)
Judge