

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1129 of 2015**

Ishwar S/o Jodhan Nayak Aged About 55 Years R/o Village Kendua,
Police Station Saraipali, Civil And Rev. Distt. Mahasamund
Chhattisgarh.

---- Applicant**Versus**

1. State Of Chhattisgarh & Ors. Through Collector, Mahasamund, Civil And Rev. Distt. Mahasamund Chhattisgarh.
2. Dwarika Prasad S/o Aahibaranlal Aged About 60 Years R/o Umariya, Police Stastion Saraipali, Civil And Rev. Distt. Mahasamund Chhattisgarh.
3. Mohanlal S/o Dwarika Prasad Aged About 30 Years R/o Umariya, Police Stastion Saraipali, Civil And Rev. Distt. Mahasamund Chhattisgarh.
4. Premdas S/o Roonudas Aged About 38 Years R/o Umariya, Police Stastion Saraipali, Civil And Rev. Distt. Mahasamund Chhattisgarh.

---- Respondents

For Applicant:	Mr. Manoj Paranjpe & Vaibhav A. Goverdhan, Advocates
For State/Respondent No.1:	Mr. Lav Sharma, Panel Lawyer
For Respondents No. 2 to 4:	Mr. Raghvendra Pradhan, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****18.03.2016**

1. Heard on I.A. No.01 of 2015, application for condonation of delay of 261 days in filing of the Criminal Revision.
2. The instant revision has been preferred by the Applicant challenging the judgment dated 24.12.2014 passed by the Additional Sessions Judge, Saraipali, District Mahasamund in

Criminal Appeal No. 12 of 2014 whereby the learned ASJ has dismissed the acquittal appeal preferred by the applicant against acquittal of respondents 2 to 4 by the trial Court for the offence punishable under Section 468 and 120B of IPC.

3. Before dealing with the application for condonation of delay it would be trite if the factual matrix of the case is narrated in brief. The prosecution case is that respondents No. 2 to 4 playing fraud with the applicant and his father fraudulently got their land sold to one Mohanlal. The Applicant on coming to know about the fraud, lodged a report to the Police who upon the investigation found that prima facie respondents No. 2 to 4 had forged the signature and thumb impression of the Applicant and his father and got a forged Sale Deed executed. The Police Authorities thereafter lodged a case against respondents No. 2 to 4 for the offence under Section 420, 467, 468 and 471/34 of IPC.
4. Upon the matter being put to trial before the trial Court charges against respondents No. 2 to 4 were framed under Section 468/120B and 468 of IPC. The Judicial Magistrate First Class which conducted the trial finally vide its judgment dated 29.12.2012 in Criminal Case No.186/10 acquitted the respondents 2 to 4. The present applicant against the said judgment of acquittal preferred an acquittal appeal registered as Criminal Appeal No.12 of 2014 before the ASJ, Saraipali, Mahasamund. Vide the impugned order dated 24.12.2014 the

ASJ dismissed the Appeal leading to the filing of the present revision petition with a delay of 261 days along with I.A. No.1 seeking condonation of delay.

5. A bare perusal of the application seeking for condonation of delay would reveal that the only ground, submission and averment made by the applicant by which the delay has been explained and upon which the condonation has been sought is reproduced as under:

“It is submitted that the applicant is a poor rustic villager and he is not aware that, after dismissal of the appeal, any remedy available to him.”

6. Except for this bald unsubstantiated and casual averment made by the applicant there is no other reason, ground or explanation given by the Applicant which could be considered as a sufficient explanation causing delay.
7. Counsel for the applicant stressed hard and tried to take this Court on the contents of the order passed by the ASJ vide the impugned judgment and stated that the grounds on which the Appeal has been rejected is totally perverse and also contrary to law.
8. Considering the submissions of the applicant, it was first necessary for the applicant to give a proper explanation seeking condonation of delay. Unless the application for condonation of delay is entertained and allowed it would be difficult for this Court to appreciate the submissions of the counsel for the Applicant on the merits of the revision petition.

9. The grounds raised by the applicant upon which condonation has been sought does not appear to be in any manner satisfactory for the reason that the applicant has not been able to strengthen his case on the said grounds except for making a casual statement of the Applicant being a poor rustic villager. The other fact submitted by the applicant in his application the applicant not being aware whether there was any remedy available to him is also in fact hard to believe for the reason that the very same applicant had at the first instance challenged the order of acquittal passed by the trial Court before the Sessions Court in an appeal and therefore in all probability when the judgments of the Sessions Court in the acquittal appeal was also delivered the fact that the appellant was represented through a counsel before the Sessions Court he must have been advised of the remedies available to the Applicant.
10. It is not the contention of the Applicant in his I.A. No.1 that the counsel who was representing the Applicant had not advised him about the remedies nor is it his contention that the counsel had in any manner misled him and it is also not the case of the applicant that the Applicant had failed in seeking the opinion of his counsel representing him before the Sessions Court about the remedies open.
11. The fact which has to be strongly borne in mind is that there is an order of acquittal in favour of the respondents 2 to 4 which

rightly or wrongly has also got an confirmation on the rejection of the acquittal appeal the judgment of acquittal is not to be easily interfered unless a very strong case is brought before the Court. There is an order of acquittal from two courts in favour of the respondents 2 to 4.

12. It has to be presumed or the only inference which can be drawn in the given facts is that after the rejection of the Appeal by the first appellate Court the applicant thought it proper not to further agitate the matter, but for some reasons he at a much belated stage again thinks to challenge the judgment of the first Appellate Court without properly giving sufficient explanation for the delay caused and the only reason on which the condonation has been sought is hard to believe and without any basis and substance.

13. An application for condonation of delay is not to be drafted in a bald casual manner with an assumption or presumption that the condonation of delay as a matter of right would be allowed even without cogent and sufficient grounds. Moreover, in the instant case when the applicant himself availed his right of appeal at the first instance there is no reason to believe that he was not aware of the further remedies available to him.

14. True it is that the application for condonation of delay in a criminal case may not be scrutinized as strictly as it is done in a civil proceedings where the delay of each day caused in the filing of the appeal has to be explained but there has to be no

doubt that even if it is a criminal case there has to be sufficient and strong grounds made out in the application for condonation of delay giving satisfactory explanation for the delay caused. In the instant case the delay in the filing of the revision petition is of almost 9 months which is a considerable period of time as far as a person who has been acquitted in a criminal case from two courts below are concerned.

15. For the foregoing reasons as this Court does not find any sufficient and satisfactory explanation shown by the applicant either in his application nor in his submission seeking for condonation of delay, the I.A. No.1 seeking condonation of delay is rejected. As a consequence, the revision petition also stands rejected.

Sd/-
(P. Sam Koshy)
JUDGE