

Crl.M.P.No.10792 of 2016
in
Crl.A.SR.No.43661 of 2016
P.VELMURUGAN, J.

This petition is filed by the State to condone the delay of 85 days in preferring an appeal against the judgment of acquittal of the respondents / A1 and A2 passed in Spl.C.C.No.31 of 2014 dated 29.02.2016 by the learned Special Judge (Special Court for Trial of Cases under the Prevention of Corruption Act), Salem.

2. The reasons for the delay as averred in the petition are as follows:-

The judgment was pronounced on 29.02.2016, copy application was submitted on 02.03.2016, copy of the judgment was received on 04.05.2016, requisition was made to the Deputy Legal Advisor, Vigilance & Anti-Corruption, Salem and the same was received on 06.05.2016, proposal along with legal opinion was submitted to the Directorate of Vigilance & Anti-Corruption, Chennai on 07.05.2016 and the same was forwarded on 03.06.2016

to Principal Secretary to Government, School Education [EE1(1)] Department, who accorded sanction to the Public Prosecutor, High Court, Madras to file appeal, which was received on 25.07.2016 and after perusal of all the records, the appeal was filed on 06.10.2016. Therefore the delay of 85 days has occurred, which is neither wilful nor wanton, but due to the aforesaid reasons. Hence, this petition is filed for condoning the delay.

3. The averments made in the counter are as follows:-

The judgment was passed as early as on 29.02.2016, but the copy application was made only on 02.03.2016 and the copy was obtained on 04.05.2016 from the trial Court. The requisition was made on 06.05.2016 to the Deputy Legal Advisor, Vigilance & Anti-Corruption, Salem and the proposal along with legal opinion was submitted to the Directorate of Vigilance & Anti-Corruption, Chennai on 07.05.2016 through proper channel and the same was forwarded to the Principal Secretary to the Government, School Education [EE1(1)] Department, Secretariat, Chennai, on

03.06.2016, after a lapse of more than one month. The Principal Secretary to Government has passed a Government Order in G.O. on 24.06.2016, after a lapse of 21 days to accord sanction to the Public Prosecutor, High Court, Madras to file appeal against the judgment of learned Special Judge (Special Court for Trial of Cases under the Prevention of Corruption Act), Salem, which was passed on 29.02.2016, before the High Court, Madras. Even though the G.O. was passed on 24.06.2016, the papers have been received by the State Public Prosecutor, High Court, Madras on 25.07.2016 after a lapse of one month through the officials of Directorate of Elementary Education, D.P.I., Nungambakkam, Chennai. The Public Prosecutor, High Court, Madras, has filed the above appeal on 06.10.2016 after a lapse of 2 months and 10 days. Therefore, the respondent prays for dismissal of the petition for condoning the delay.

4. The learned Additional Public Prosecutor appearing for the State/Petitioner would submit that due to the administrative

reason alone, they could not file the appeal in time and therefore, there occurs a delay of 85 days in filing the appeal, which is neither wilful nor wanton and prays that the delay may be condoned.

5. The learned counsel for the respondents would submit that the averments made in the affidavit filed by the State itself show that they have not continually done the administrative correspondence and there was delay between one correspondence to another correspondence. The learned counsel further submitted that it is settled law that each and every day delay should be explained, however, the reasons are not sufficient to condone the delay and therefore, this petition is liable to be dismissed.

6. Heard the learned Additional Public Prosecutor appearing for the State/Petitioner and the respective learned counsel appearing for the respondents 1 and 2. Perused the affidavit filed by the State and counter affidavit filed by the respondent. Considered the submissions made by both side

counsel.

7. After considering the facts and circumstances and also the facts that the delay has occurred due to administrative reasons and the appeal is filed by the State against the order of acquittal dated 29.02.2016 passed in Spl.C.C.No.31 of 2014 by the learned Special Judge (Special Court for Trial of Cases under the Prevention of Corruption Act), Salem, and also that no prejudice would be caused to the respondents, if the delay is condoned, this Court is inclined to condone the delay of 85 days in preferring the appeal against the judgment of acquittal of the respondents / A1 and A2 passed in Spl.C.C.No.31 of 2014 dated 29.02.2016 by the learned Special Judge (Special Court for Trial of Cases under the Prevention of Corruption Act), Salem.

8. The petition is allowed.

P.VELMURUGAN, J.

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