

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRMP No. 504 of 2013

Chandan Lal Katare **Versus** Smt.savitri Dewangan

08/11/2017	Shri Ravindra Agrawal, Advocate for the petitioner. Shri Raghvendra Pradhan, Advocate for the respondent. Heard on I.A. No.1, which is an application for condonation of delay. Learned counsel for the petitioner submits that against the original order of acquittal dated 25.03.2011, inadvertently acquittal appeal was filed before the Additional Sessions Judge, Bhatapara. Subsequently, by an order dated 08.01.2013, the Additional Sessions Judge directed that the appeal has to be preferred before the High Court. Consequently, the order of the appellate Court was applied on 09.01.2013 and thereafter it was received on 11.01.2013. It is contended that after that the petitioner arranged to come to Bilaspur and when he came to Bilaspur, he was advised to get the certified copy of the original acquittal order of 25.03.2011. In the meanwhile, the record of the Baloda-Bazar were transferred to Raipur, as such he had to go Raipur to obtain the copy, the copy was applied on 06.04.2013 and it was availed on 11.04.2013. Thereafter, on 09.05.2013, the instant petition for leave to acquittal appeal was filed. He would thus submit that since all the dates have been explained and the delay is bona fide, therefore, the delay of 411 days in filing the

petition may be condoned.

Per contra, learned counsel for the respondent opposes the same and submits that despite knowing the fact of obtaining the certified copy in the month of January, 2013, the petitioner sat over the matter and even after getting the certified copy on 11.04.2013, no explanation has been given that why the petition was filed on 10.05.2013.

Perused the record and the certified copy of the order dated 08.01.2013, passed by the Additional Sessions Judge, Bhatapara, whereby it was directed that the acquittal appeal has to be preferred before the High Court. Copy of the same was applied on 09.01.2013 and was obtained on 11.01.2013. Thereafter, the original acquittal order passed by the JMFC, Bhatapara appears to be applied on 06.04.2013, which was received on 11.04.2013, thereafter, the petitioner came to Bilaspur and filed the instant petition on 10.05.2013.

Considering the facts of this case, the delay appears to be bona fide and no deliberate delay appears to be on the face of the record and the appeal appears to have been wrongly preferred before the Additional Sessions Judge. In view of the facts exists, the delay of 411 days in filing the petition is condoned. Accordingly, the application I.A. No.1 stands allowed.

Also heard on application for leave to appeal.

Perused the record and also the statement of the victim. Considering the same, leave to appeal is allowed.

Ashu	Registry is directed to register the case as Acquittal Appeal. Since the respondent has already entered appearance, no further notice is required. Respondent is directed to furnish bail bond of Rs.5000/- with one surety, within a period of one month before the JMFC, Bhatapara to secure her presence before this Court as and when required. List this case for final hearing. Sd/- Goutam Bhaduri Judge
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