

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 557 of 2017

- Pratik Agrawal S/o Ram Narayan Agrawal, Aged About 31 Years R/o Vivekanand Colony, Gali No. 3, Tahsil & District Dhamtari, Chhattisgarh.

---- Petitioner

Versus

- Dr. Bhupendra Soni S/o Late Bhuneshwar Soni, Aged About 41 Years R/o H / 87, Irrigation Colony, Gangrel, Tahsil & District Dhamtari, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Pushpendra K. Patel, Advocate.
For Respondent	:	Shri P.P. Sahu, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

13/07/2017

1. It is submitted by counsel for the petitioner that the order for taking cognizance passed by the trial Court, is erroneous and without any basis. By dismissal of revision on the ground of limitation, no fair opportunity has been afforded to the petitioner, hence, it is prayed that the impugned order be set aside and the Court below be directed to decide the revision petition on merits.
2. Learned counsel for the respondent submits that petitioner has failed to explain the delay satisfactorily to the revisional Court. Petitioner had notice of the order of the trial Court dated 28.5.2016, even then he chose to file application for certified copy on 6.8.2016. Further, after receiving the certified copies, he again remained inactive for another period of more than one month and filed revision petition before the Court on 20.10.2016 and the revisional Court has rightly held that the delay has not been explained satisfactorily. Hence, this petition has no merit.
3. Considered the material on record, petitioner has though moved the revision petition after sufficient delay and submitted that he was not aware of the order of taking cognizance against him prior to the date of 22.7.2016, because it was the date of which he appeared in the Court in the case against him.

4. It can be assumed that petitioner remained inactive from 8.6.2016 the date he received the summons of the Court till the date he appeared before the Court. Otherwise, if, the time period is counted from 22.7.2016, the revision petition filed could have been considered to be within limitation. Although, there is no effort to explain the inaction of the petitioner and there is a requirement under Section 5 of the Limitation Act, 1963, to satisfy the Court that there was sufficient cause for not preferring appeal or revision within the period of limitation, the dismissal of revision only on this ground in of default bars on the opportunity of petitioner to challenge the order passed against him. Hence, in the interest of justice, it would be proper if, the revision petition is decided on merits. For this reason alone and in-exercise of inherent power under Section 482 of Cr.P.C., it is not required for this Court to consider the order passed by the revisional Court in the same manner. Hence, this petition is allowed. The impugned order passed by Additional Sessions Judge, Dhamtari dated 25.3.2017, is set aside. Parties are directed to give appearance before the Court below on **11/09/2017** for further hearing. It is directed that the revision petition be taken up for decision on merits by the concerned Court.

Sd/-

(Rajendra Chandra Singh Samant)
JUDGE