

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRL.A.M.P. No.2211 OF 2017

IN/AND

CRIMINAL APPEAL No.1075 OF 2017

COMMON JUDGMENT:

Crl.A.M.P. No.2211 of 2017 is filed to condone the delay of 953 days in filing the appeal stating that an application for certified copy of judgment was made on 21.06.2013 and the copy was ready on 25.06.2013; after obtaining the judgment copy, the Superintendent of Police, Adilabad District, sent the material papers through proper channel to the Additional Public Prosecutor, Asifabad, for opinion, etc.; after receiving the opinion, *vide* proceedings dated 21.07.2013, the Additional Public Prosecutor sent proposal to the Office of the Public Prosecutor of the High Court, the same was received by the Public Prosecutor, High Court on 02.09.2013 and the Public Prosecutor gave opinion on 30.01.2015 and the G.O. was sanctioned accordingly on 09.09.2015; thereafter, this appeal is filed on 30.07.2015; in that process, the delay of 953 days was caused and it is not willful.

2. The other side has opposed the delay petition and contended that there are no justifiable grounds to allow the petition.

3. As seen from the record, the delay of 953 days is caused in filing the appeal. Though certified copy was made available with the Superintendent of Police, Asifabad, immediately on pronouncement of judgment, the Office of the Public Prosecutor of the High court made clearance in this case on 30.01.2015. Thereafter, the G.O. to accord permission to prefer appeal was given

on 09.09.2015. Even then, this appeal was filed on 30.07.2015. The contention of the petitioner is that the delay is only on administrative grounds and it was not deliberate or willful. As per Section 5 of the Limitation Act, day to day delay is required to be explained. The day to day delay is not explained by the petitioner. The file was sent to the Office of the Public Prosecutor of the High Court on 02.09.2013 and the opinion was received on 30.01.2015; in that process one and half years delay has been caused. The appellant did not choose to explain the reason for the said delay, simply gave the date of sending the file and receipt of the opinion. The appellant has not diligently pursued the file from one stage to other. There are laches on the part of the appellant in not seeking the opinion etc., to prefer the appeal within the stipulated statutory period. Under these circumstances, the delay of 953 days in preferring the Appeal cannot be condoned. The petition is devoid of merits and it is liable to be dismissed.

4. In the result, Crl.A.M.P. No.2211 of 2017 is dismissed. Consequently, the Criminal Appeal is dismissed. As a sequel, miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 28-11-2017.

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