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IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.L.P. 460/2017

THE STATE GOVT OF NCT OF DELHIPetitioner
Through: Mr. Priya Ram, Advocate

versus

RAJ SINGH & ORSRespondents
Through: Ms. Kusum Dhalla, APP with Insp.
P.K. Jha, PS Neb Sarai

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE REKHA PALLI

ORDER
% **07.11.2017**

CRL.M.A 12906/2017 (Delay of 348 days in filing)

1. There is an inordinate delay of 348 days in filing the accompanying Criminal Leave Petition. In the present application seeking condonation of the delay, the reasons furnished in paras 3 to 8 are as under:

“3. That the appellant submits that the accompanying appeal is not filed within the period of limitation, as after passing of the impugned judgment dated 25.04.2016, the Additional Public Prosecutor, after obtaining attested copy of impugned judgment, obtained the copy of Judgement and handed over the file to the office of Prosecution Bench with his opinion on 13.06.2016. After receipt of the same, Director of Prosecution sent the same for legal opinion/ permission for filing appeal to the office of Secretary (Law and Justice), which was received by it on 24.10.2016.

4. That after receipt of the complete file and after forming opinion forwarded the file for opinion and permission from Department of Law, Justice and Legislative Affairs, on 18.11.2016.

5. That after perusing the records of the case, Department of Law, Justice and Legislative Affairs, after issuance of necessary permission from Hon'ble Lt. Governor, forwarded the file with the permission to file the appeal, which was received reached the office of Director of Prosecution, Delhi High Court, on 27.02.2017.

6. That after receipt of the file, in the last week of February the concerned official directed, Additional Public Prosecutor Delhi High court to prepare and file the appeal to be filed before this Hon'ble Court.

7. That after receipt of the records and after perusing the brief, evidence and judgment of the case, the, Additional Public Prosecutor prepared the accompanying appeal on 03.05.2017 and sent to the concerned department for perusal and approval of the appeal.

8. That Mr. Additional Public Prosecutor (Criminal), received the duly approved and vetted appeal on 5.7.2017 and is filed before this Hon'ble Court. Thus, in the aforesaid circumstances, delay of approx.348 days have been occasioned in filing the accompanying appeal, the same may be condoned by this Hon'ble Court.”

2. The Court finds the above explanation neither satisfactory nor even justified. It seems that there is an inordinate delay at every stage leading to the grant of permission for filing the Criminal Leave Petition.

3. The Supreme Court in *Postmaster General v. Living Media India*

Limited (2012) 3 SCC 563 observed as under:

“In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the Government Departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.”

4. The above observations have been reiterated by the Supreme Court in ***State of U.P. v. Amar Nath Yadav (2014) 2 SCC 422***.
5. The explanation offered by the Appellant being insufficient, the Court is not persuaded to condone the inordinate delay of 348 days in filing the Criminal Leave Petition. The application is accordingly dismissed.
6. Consequently, the Criminal Leave Petition is also dismissed.

S. MURALIDHAR, J.

REKHA PALLI, J.

NOVEMBER 07, 2017

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