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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.L.P. 510/2017**

STATE

..... Petitioner

Through: Ms.Radhika Kolluru, APP along with
S.I. Shamsheer Singh, P.S. Jaitpur.

versus

RAKESH KUMAR

..... Respondent

Through: Mr.Abhimanyu Singh, Advocate.

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE I.S. MEHTA**

ORDER

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27.11.2017

Crl.M.A.No.14604/2017 (delay of 343 days in filing)

1. There is an extraordinary delay of 343 days in filing the Criminal Leave Petition (Crl LP). The Court has perused the application seeking condonation of delay filed by the State. Paras 2 to 7 of the said application read as under:

“2. That after the pronouncement of order dated 26.5.2016, on dated 2.11.2016 it was opined by the Ld. APP that the present is not a fit case for appeal. Thereafter on 16.11.2016 the recommendation was received by the office of Principal Secretary, Law and Justice (Department of Law and Justice) saying it is not a fit case for filing an appeal.

3. That on 11.4.2017 the Additional Secretary (Law and Justice) opined that it is a fit case to be challenged further. Thereafter the file was sent to the office of Principal Secretary, Law and Justice followed by the office of Ministry of Law.

4. That on 4.5.2017 the Deputy Chief Minister/Minister of Law gave his endorsement for filing of the present appeal and it was marked to Directorate of Prosecution on 3.6.2017.

5. That on 19.6.2017 the Directorate of Prosecution sent a letter for requisition of the proforma of this case from the Chief Prosecutor.

6. That on 27.6.2017 the file was dispatched to the office of the Ld. Standing Counsel (Crl), Delhi High Court, for filing the present appeal.

7. That on 29.6.2017 the present case was marked to the undersigned for drafting the present appeal. It is respectfully submitted that office of the undersigned counsel took some time to prepare and finalize the present petition after taking necessary instructions from the department.”

2. It is straightaway seen that it took the Additional Public Prosecutor (APP) more than 5 months to opine that the case was not fit for appeal. It thereafter took the Additional Secretary (Law & Justice) another 5 months to opine to the contrary. There was no explanation whatsoever as to why at these two stages over 5 months each was taken to take a decision, particularly if the matter was as serious as it is projected to be. The Court is not satisfied with the justification offered for the delay in the State coming to a decision on whether the Crl LP should be filed or not.

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 bona fide 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 were reiterated in *State of U.P. v. Amar Nath Yadav (2014) 2 SCC 422*.

5. The explanation offered by the State for the delay in filing the Crl LP is wholly inadequate. The Court is not persuaded to condone the delay.

6. The application is dismissed. Consequently, the Crl LP is also dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

NOVEMBER 27, 2017
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