

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1081 of 2017**

Arising Out of PS. Case No.-24 Year-1998 Thana- BHABHUA District- Kaimur (Bhabua)

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Rajendra Kharbar Son of Bhagwat Kharbar, R/o Village- Devji
Khurd , P.S.- Bhabhun, District- Kaimur.

... .. Appellant/s

Versus

1. The State Of Bihar and Ors
2. Rajendra Singh Son of Late Kalika Singh,
3. Munna Singh Son of Bhagwati Singh,
4. Daya Singh Son of Lalta Singh,
5. Ram Lal Singh Son of Late Shobha Singh,
6. Sindhu Singh @ Surendra Singh Son of Ram Lal Singh,
7. Mahendra Singh Son of Ram Lal Singh,
8. Rama Shankar Singh Son of Ram Lal Singh,
9. Narad Singh Son of Late Ram Chandra Singh null
10. Dina Singh Son of Late Ram Naresh Singh,
11. Hema Singh @ Hemchandra Singh Son of Late Udai Singh,
12. Radha Shayam Singh Son of Late Kailash Singh, null
13. Uma Shankar Singh Son of Lalta Singh, All are R/o Village-
Maheshua, P.S.- Bhabhua, District- Kaimur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Arvind Kumar
For the Respondent/s : Mr. Shashi Bala Verma

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**CORAM: HONOURABLE MR. JUSTICE HEMANT
KUMAR SRIVASTAVA**

and

**HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER**



(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

7 19-06-2019 I.A.No. 1909 of 2017 has been filed under section 5 of the limitation Act on behalf of the appellant for condonation of delay of more than two years in filing this criminal appeal.

Learned counsel appearing for the appellant submits that the appellant is informant in Bhabhua P. S. Case No. 24 of 1998 but he did not get any information about the pronouncement of impugned judgment dated 25.02.2015 passed by learned 1st Additional Sessions Judge, Kamur at Bhabhua in Session Trial no. 154 of 2001. He submits that the appellant got knowledge of impugned judgment on 02.06.2017 and after that he applied for certified copy of impugned judgment on 03.06.2017. He further submits that the appellant got the certified copy of the impugned judgment on 06.06.2017 and, thereafter, he preferred this criminal appeal in the month of September 2017. He submits that the delay in filing this criminal appeal was not intentional and, as a matter of fact, as soon as the appellant got certified copy of the impugned judgment, he immediately preferred appeal against the impugned judgment.

On the other hand, learned counsel appearing for the respondent nos. 2, 4 and 13 submits that no sufficient



explanation of delay has been given by the appellant. He submits that admittedly, the instant appeal has been preferred against the judgment of acquittal which was passed on 25.02.2015. He further submits that the impugned judgment goes to show that there was case and counter case between the parties and the appellant and some others were acquitted in counter case but appeal against the aforesaid appellant is pending before this Court. It appears that the appellant was very much aware about the delivery of impugned judgment of acquittal.

Having heard the contentions of both the parties, we find that the learned trial court vide impugned judgment dated 25.02.2015 acquitted the respondent nos. 2 to 13 from the charges framed against them under section 302 and other minor sections of the Indian Penal Code and admittedly, the instant appeal was preferred on 01.02.2017 i.e. more than after two years of pronouncement of impugned judgment. Although, the appellant has tried to explain the circumstances in which he could not succeed to prefer the appeal within time but we are not at all convinced with the explanation given by the appellant in the above stated I.A. No. 1909 of 2017 as there is unexplained delay in filing this criminal appeal. Moreover, in



course of hearing, learned counsel for the appellant could not succeed to point out any absurdity in the impugned judgment of acquittal.

Therefore, in our view, it would not be proper to condone the delay.

In the aforesaid manner I.A. No. 1909 of 2017 stands disposed of. So far as I.A. No. 2351 of 2017 which has been filed for grant of leave to file this criminal appeal is concerned, the same also stands dismissed in view of the above stated discussions.

(Hemant Kumar Srivastava, J)

N.K/-

(Partha Sarthy, J)

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