

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1021 of 2018**

- Abhishek Pathak S/o Laxmi Sevak Pathak Aged About 24 Years R/o- Opp. Civil Court, Main Road, Lormi, District- Mungeli, Chhattisgarh

---- Petitioner**Versus**

1. Sanjay @ Lallu Soni S/o Ramadhar Soni Aged About 34 Years R/o- Bijuri, P.S.- Bijuri, District- Anuppur (M.P)
2. State Of Chhattisgarh Through- Station House Officer, Police Station- Lormi, District- Mungeli, Chhattisgarh

---- Respondents

For Petitioner : Shri Vivek Kumar Tripathi, Advocate

For Respondent/State : Shri R.K. Bhagat, Dy. GA for the State.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****09/1/2019**

1. Heard.
2. The present petition is against the order dated 16.11.2017 passed in an appeal preferred by the respondent No.1 Sanjay @ Lallu Soni. The facts and background of this case are that the respondent No.1 was tried along with the other co-accused persons, wherein the other co-accused were tried under Sections 457, 380 & 34 IPC and Sanjay @ Lallu Soni was tried under Section 411 of IPC. After the entire trial, the other co-accused along with Sanjay @ Lallu Soni, who was accused No.7 therein was acquitted by order dated

10.05.2016, the trial Court however, in the order did not order for return of the stolen goods to be handed over to the said accused though he was acquitted, therefore, he preferred an appeal. The challenge herein in this case is that the appeal though it was delayed, however, the appellate Court condoned the delay of the appeal preferred by respondent No.1 without giving any opportunity of hearing to the petitioner herein, who was a complainant.

3. Perusal of the order dated 16.11.2017 shows that the appellate Court while admitting the appeal preferred by respondent No.1 condoned the delay in preferring the appeal for the reasons assigned in the application for condonation of delay. The appellate Court observed that only 3 days delay was actually caused. Taking into such fact, the quantum of delay so occurred, in the opinion of this Court it is not a case where interference is required for in exercise of power under Section 482 Cr.P.C. to observe any jurisdictional error. Accordingly, the petition is dismissed. However, the petitioner shall be at liberty to participate in the merits of the hearing of the appeal and may present his part of submission and the appellate Court in such case shall hear the same and decide the appeal on merits.

Sd/-

Goutam Bhaduri
Judge

Ashu