

IN THE HIGH COURT OF BOMBAY AT GOA.
CRIMINAL MISC. APPLICATION NO. 232 OF 2019.
IN
STAMP NUMBER MAIN NO.3080 OF 2019.

State of Goa, thr.
Police Sub-Inspector,
Dinesh Gadekar, Attached
to Fatorda Police Station.

... Applicant.

Versus

Savlo Chodankar and two ors.

... Respondents.

Mr. M. Amonkar, Addl. Public Prosecutor for the applicant.
Mr. S. Desai, Advocate for the respondent no.1.
Mr. C. Angle, Advocate for respondent no.2.
Mr. K. Noorani, Advocate for respondent no.3 under legal aid scheme.

Coram:- PRITHVIRAJ K. CHAVAN, J.
Reserved on:- 14th November, 2019.
Pronounced on:-15th November, 2019.

ORDER

The Children's Court Goa acquitted the respondents of an offence punishable under Section 8(2) of the Goa Children's Act, 2003 by the judgment and order dated 9.5.2019. There is a delay of 15 days in preferring an appeal by State of Goa, though certified copy was applied for on the date of the judgment itself and was received by the State on

17.5.2019.

2. The reasons put forth by the State are that the file was sent to the office of SDPO Porvorim who has, by his letter dated 2.7.2019, requested the Director of Prosecution to give its opinion for filing an appeal. The Director of Prosecution gave his opinion on 3.7.2019 suggesting that an appeal be filed. Thereafter, the Law Department granted approval and thereafter the file was sent to the office of Advocate General for the State of Goa. As such, Mr. Amonkar, learned Additional Public Prosecutor submits that there is no malafide nor any intentional delay in filing the appeal and, therefore, delay needs to be condoned.

3. On the other hand, learned Counsel for the respondents namely Mr. S. Desai and Mr. K. Noorani submit that the application is filed in a most casual manner without giving the details as to how the delay has been occurred. The learned Counsel submit that it is not the length of the delay but the reasons assigned therein which cannot be said to be genuine and proper. Administrative difficulty of the State cannot be

a bona fide reason. It is submitted that valuable rights have been accrued to the respondents and, therefore, learned Counsel objected condoning the delay.

4. After hearing the respective learned Counsel and having gone through the application of the State, I am of the view that the delay of 15 days needs to be condoned for the reason that it is necessary for the Court to be conscious of the bureaucratic delay and the slow pace in reaching a government decision and the routine way of deciding whether the State should prefer an appeal against a judgment adverse to it. This has been observed by the Supreme Court in a recent judgment in the case of the *State of Manipur and ors Vs. Koting Lamkang*¹.

5. It is important to ensure that the State's interest also needs to be considered to avoid injustice. Explanation tendered by the State is satisfactory. It is always better to have a matter adjudicated on merits in order to render substantial justice.

¹ Civil Appeal No. 8298 of 2019.

6. For the reasons aforesaid, application is allowed. Delay of 15 days is condoned. Application stands disposed of.

PRITHVIRAJ K. CHAVAN, J.

vn