

HON'BLE JUSTICE G. SRI DEVI
CRIMINAL REVISION CASE No.200 of 2020

ORDER :

This Criminal Revision Case is filed by the petitioner-A1 under Sections 397 and 401 of the Code of the Criminal Procedure, 1973, challenging the order, dated 07.02.2020 in CrI.M.P.No.3580 of 2019 in CrI.A.SR.No.13976 of 2019 on the file of the Metropolitan Sessions Judge, Hyderabad.

2. Heard the learned counsel for the petitioner-A1 and the learned Additional Public Prosecutor representing the State.

3. The petitioner herein filed CrI.M.P.No.3580 of 2019 before the Metropolitan Sessions Judge, Hyderabad, to condone the delay of 2331 days in preferring the appeal against the judgment, dated 28.06.2013 in C.C.No.181 of 2012 on the file of the XII Addl. Chief Metropolitan Magistrate, Hyderabad. The learned Sessions Judge after considering the material on record, dismissed the petition. Hence, this revision.

4. The learned counsel for the petitioner submits that the court below has not considered the medical records placed before it as the petitioner is surviving on a single kidney and the petitioner has undergone major surgery and a rod is also implanted in his left leg. He further submits that the mother of the petitioner is suffering from permanent disability and the petitioner has

to take care of his handicapped mother. He further submits that the petitioner is critically ill and his health condition is deteriorating day-by-day and he being in jail, he developed suicidal tendency and in fact attempted to commit suicide, but somehow he was given treatment within the time and as such, he could survive. He further submits that the petitioner is having two minor children and their responsibility is on the petitioner and hence, he prays to allow the Revision.

5. The learned Additional Public Prosecutor submits that the court below after considering the material on record, rightly dismissed the petition filed for condonation of delay and hence, he prays to dismiss this revision.

6. The learned Sessions Judge while dismissing the petition filed to condone the delay in preferring the appeal, observed that the medical report is falling short to explain how the petitioner was prevented from filing appeal during the period of delay and such reason is beyond his control. However, a perusal of the petition filed by the petitioner reveals that the petitioner has already suffered severe ill health and he is having only one kidney and also having a rod in his leg. The petitioner attempted to commit suicide by consuming the tablets in the jail and presently, he is undergoing treatment in Osmania General Hospital,

Hyderabad. Moreover, the mother of the petitioner is handicapped and she paid the fine amount, which was imposed by the trial Court while imposing sentence of imprisonment against the petitioner-A1. A perusal of the order further reveals that warrant was executed on 16.10.2019 and the petitioner is in custody since last 4 months, which shows that he has also undergone one third (1/3rd) period of sentence. The order further reveals that the burden rests on the petitioner, who seeks the relief for condonation of delay. It is needless to say that while disposing of the applications of this nature, the approach of the Court shall be pragmatic, but not pedantic. Each day's delay may not be explained by the party, who is seeking condonation of delay. The petitioner has already submitted all the medical bills showing his illness and the disability of his mother. The appellate Court while dealing with such application, ought to have considered the grounds taken by the petitioner.

7. Taking into consideration the facts and circumstances of the case and also the fact that the petitioner has already undergone imprisonment for four months i.e, one third of the imprisonment, which was imposed by the trial Court, I deem it appropriate to allow the revision by setting aside the order passed by the appellate Court.

8. Accordingly, the Criminal Revision Case is allowed setting aside the order, dated 07.02.2020 in CrI.M.P.No.3580 of 2019 in CrI.A.SR.No.13976 of 2019 on the file of the Metropolitan Sessions Judge, Hyderabad, and consequently, the delay of 2331 days in preferring the appeal is condoned. The appellate Court is directed to register the appeal and release the petitioner-A1 forthwith by imposing certain terms and conditions, which may deem fit and proper in the circumstances of the case. Miscellaneous petitions, if any pending shall stand cancelled.

DATED: 17.02.2020.

Hsd

JUSTICE G. SRI DEVI



