

16.08.2021

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(Via Video Conference)
C.R.M.S.P.L. 9 of 2021
With
IA No. C.R.A.N. 1 of 2021
Biswanath Das
-Vs.-
Swapan Sen

Mr. Sourav Chatterjee

Ms. Subhasree Patel

Mr. Soham Banerjee

.....For the Appellant

IA No. C.R.A.N. 1 of 2021

Affidavit of service filed in compliance of the Court's order appears to show that the item delivery has been confirmed and a copy of the application under Section 5 of the Limitation Act has been served upon the opposite party but none appeared.

Hence, upon hearing Mr. Sourav Chatterjee, learned counsel for the appellant, the application under Section 5 of the Limitation Act for condonation of 446 days delay in preferring appeal is taken up for hearing. Mr. Chatterjee refers to paragraph 8 of the application to submit that after the pronouncement of the impugned judgment and order dated 27.11.2019 the petitioner applied for the certified copy of the same on 05.12.2019 which was supplied on 07.12.2019 but due to an inadvertent mistake, the revisional application was filed against the

said judgment and order of acquittal being C.R.R. No.687 of 2020 on 20.02.2020. But, by an order dated 12.03.2020, the revisional application was disposed of as not pressed, because the petitioner had inadvertently chosen a wrong forum. Explanation for the delay of 446 days sought to be condoned is sufficient.

Accordingly, the delay is hereby condoned in consideration of Section 14 of Limitation Act.

The special leave to appeal against the judgment and order dated 27.11.2019 whereby the learned Sessions Judge, in Criminal Appeal No.5 of 2018 had acquitted the opposite party by setting aside the judgment dated 30.12.2017 passed by the Additional Chief Judicial Magistrate, Bidhannagar, North 24 Parganas in Complaint Case No.710 of 2015 is granted.

Thus, the application for condonation of delay being, IA No. C.R.A.N. 1 of 2021 is hereby allowed and disposed of.

Accordingly, the application for grant of special leave to appeal being, C.R.M.S.P.L. 9 of 2021 is also allowed and thus disposed of.

(Shivakant Prasad, J.)