

**21.03.2022**

**Sl. No. 10**

**Court No.42**

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BM

(Via Video Conference)

**CRMSPL 11 of 2021**

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**IA No.: CRAN/1/2021**

**Debasmita Gayen (nee Guin)**

**Vs.**

**Rudra Prasad Gayen & Ors.**

Mr. Tapan Datta Gupta

Mr. Parvej Anam

... for the petitioner

Mr. Siraj Gooptu

... for the opposite party

**Re : IA No.: CRAN/1/2021**

Affidavit of service filed be kept with the record.

This is an application under Section 5 of the Limitation Act filed by the defacto complainant of the petitioner praying for condonation of delay of 130 days in preferring the application for special leave to appeal.

It is avert in the application under Section 5 of the Limitation Act that due to Covid pandemic, the petitioner could not obtain certified copy of the impugned judgement of acquittal passed in favour of the accused persons/opposite parties and there was delay of 130 days. Such delay should be condoned.

Learned advocate for the accused on the other hand submits that the accused persons were implicated in a case under Sections 498A/406 of the Indian Penal Code. They were acquitted from the

charge by the learned trial court. However, it is frankly submitted by the learned advocate for the opposite parties that the period of delay due to Covid pandemic would be automatically condoned in view of the decision passed by the Hon'ble Supreme Court in M.A No.21 of 2021.

Having heard the learned counsel for the parties and on perusal of the petition under Section 5 of the Limitation Act, this court of the view that delay in filing appeal was sufficiently explained by the petitioner.

Accordingly, delay is condoned.

The application under Section 5 of the Limitation Act is allowed.

IA No.: CRAN/1/2021 is disposed of.

**Re : CRMSPL 11 of 2021**

This is an application for Special Leave to Appeal against the judgement and order of acquittal passed in G.R case No.1760 of 2012 by the learned Additional Chief Metropolitan Magistrate, First Court at Calcutta under Section 498A/406 of the Indian Penal Code. Perused the impugned judgement. Leave to prefer appeal against the aforesaid judgement is granted.

The appellant is directed to file memorandum of appeal within 30 days from the date of this order.

The accused person/private opposite parties are directed to surrender before the learned court below and upon surrendering, the

learned court below shall admit them to bail under the provisions of Section 390 of the Code of Criminal Procedure.

Application being CRMSPL 11 of 2021 is thus disposed of.

**(Bibek Chaudhuri, J.)**