

**08.03.2022**

Sl. No. 23

Srimanta

Ct.No.42

**IA NO.: CRAN/1/2019 (Old No.: CRAN/2865/2019)**

**in**

**CRMSPL/37/2019**

**(Via Video Conference)**

In Re : An application under Section 378(3) of the Code of Criminal Procedure, 1973.

In the matter of : **Central Bureau of Investigation  
represented by Addl., SP, CBI, ACB, Kolkata**

...petitioner.

Mr. Anirban Mitra, Adv.

...for the C.B.I.

Affidavit-of-service filed in Court today be kept with the record. It appears from the record that in spite of service being effected, the private opposite party has not appeared before this Court to contest the instant application under Section 5 of the Limitation Act.

This is an application for condonation of delay of 275 days (though as per the calculation made by the petitioner, delay is of 295 days) in filing the application for special leave to appeal. The reason for delay in filing the special leave application is explained in paragraph no. 6 by the petitioner. It is found from paragraph 6 of the application that delay was caused mainly due to official red tapism prevailing in the office of the Central Bureau of Investigation. The local authority of the Central Bureau of Investigation cannot take independent decision if an appeal is required to be filed against an order of acquittal or not. The opinion of the local officers of Central Bureau of Investigation is required to be sent to Delhi and the file travels various Departments and

finally when permission to file special leave application is received by the Additional Solicitor General, High Court at Calcutta, the statutory period of limitation expires in all cases. Moreover, delay is not for few days in many cases, it is for months together or even more than a year. The highest seat of Central Bureau of Investigation in consultation with the Ministry of Law and Justice, Government of India should revisit the problem faced by not only the prosecutors but also the Court while entertaining an application for special leave to appeal before the high Court against the judgment and order of acquittal passed by the Special Court below.

However, this Court is of the view that reckless attitude of the Government Department should not be considered as a ground to throw away the application for special leave to appeal where the Investigating Agency is aggrieved against an order passed by the Court below.

I have gone through the grounds mentioned by the petitioner explaining the delay and I am of the view that delay has been properly explained. The Central Bureau of Investigation was prevented by sufficient cause from filing the application for special leave to appeal.

Accordingly, the application under Section 5 of the Limitation Act is **allowed**. Delay is condoned.

The application for special leave to appeal is taken up for hearing.

I have heard the Learned Advocate for the petitioner and perused the impugned judgement. Special leave to appeal is **allowed**. The petitioner is directed to file memorandum of appeal within 30 days from the date of this order.

A copy of this order be sent to the Joint Director, Central Bureau of Investigation, Nizam Palace and the

Director, Central Bureau of Investigation, Plot No. – 5-B,  
C.G.O. Complex, New Delhi – 110003.

Let a copy of this order also be sent to the Secretary,  
Ministry of Law and Justice, Government of India for  
information and consideration of the observation of this Court  
so that there may not be any delay in filing appeals or special  
leave to appeals by the Central Bureau of Investigation before  
this Court.

The applications are, thus, **disposed of**.

**( Bibek Chaudhuri, J. )**