

D/L3
28.11.2022
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CRMSPL 42 of 2022
With
CRAN 1 of 2022

Central Bureau of Investigation
Versus
Rabindranath Biswas and others

Mr. Anirban Mitra,
Mr. Samrat Ghosh.
...for the petitioner.

Mr. Imtiaz Ahmed,
Ms. Ghazala Firdous,
Mr. Shibasish Banerjee,
Mr. Sk. Saidullah,
Ms. Smita Saha,
Mr. Mithun Mondal.
...for the opposite party nos.1 and 2.

Mr. Bishnupada Dutta,
Mr. Sudhakar Thakur.
...for the respondent no.3.

There is a delay of 910 days in preferring the appeal.

Mr. Mitra, learned advocate appearing for the CBI submits that the present Special Leave to Appeal was preferred in respect of a nationalised bank suffering loss and in spite of materials appearing against the officers of the bank and the beneficiaries, the learned trial court failed to appreciate the same in its true perspective and acquitted all the accused persons.

Mr. Ahmed, learned advocate, appears on behalf of the opposite party nos.1 and 2.

Mr. Dutta, learned advocate, appears on behalf of the opposite party no.3.

Learned advocates appearing for the opposite parties vehemently oppose the application under Section 5 of the Limitation

Act and submit that there are unexplained delay in the application under Section 5 of the Limitation Act and the Government Department as usual drags the criminal case and in this case also almost after 2½ years the Special Leave to Appeal has been preferred. It is also contention of the learned advocate appearing for the opposite parties that the learned trial court while delivering the judgment has minutely scrutinised the evidence appearing on record and there is no scope for reassessing the evidence after more than 30 months of the same being passed.

I have considered the submissions advanced by the learned advocate appearing for the CBI as well as that of the opposite party nos.1,2 and 3. I find that there are disputed questions of fact which have been argued both on behalf of the petitioner/applicant as well as the private opposite parties. The lower court records are required to assess in order to test the genuineness of the same.

In view of the fact that the officer of the nationalised bank disbursed the loan in violation of the banking rules and regulations and the test of criminality is required to be assessed by this Court, the delay which has occurred is hereby condoned.

Accordingly, CRAN 1 of 2022 is allowed.

In Re: CRMSPL 42 of 2022

The Special Leave prayed for in order to prefer the appeal is allowed.

Liberty is granted to the petitioner to file their memorandum of appeal within a period of 30 days from date.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)