

**14.12.2022**  
**Item No. 05**  
**BR**

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**CRR 2568 of 2010**  
**With**  
**CRAN 1 of 2013**

**In the matter of : Manoj Ram & Ors.**

This application under Section 482 of the Cr P C is directed against an order passed by learned Additional Sessions Judge on 20<sup>th</sup> July, 2010 dismissing the petition for condonation of delay of 46 days in preferring appeal and thus the criminal appeal No. 18 of 2010 arose out of CR Case No. 1 of 1995 under Section 3(a)RP (UP) Act, 1966 stood dismissed. None is found present to support the petition as the matter is pending for more than 10 years I proposed to proceed with the criminal revision on merit.

Fact of the case in short is that Manoj Ram, Nanda Mondal , Jogesh Mondal were nabbed by RPF and other railway employees on 4<sup>th</sup> January, 1996. Rashid Seikh , Jogesh Mondal, Md. Jabbar were caught red handed and the Nandi Mondal fled away with railway property. The accused persons were found engaged in breaking iron materials and were arrested

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by RPF personnel who were holding the raid being led by S.I., A.M.Tripathy. It was found that accused persons had in their possession railway properties. The complaint case was filed before the learned ACJM, Durgapur under Section 3(a)RP (UP) act, 1966. Learned trial Court after considering the evidence on record was pleased to hold the accused persons guilty to the charge under Section 3(a) RP (UP) Act, 1966 and sentenced them to suffer rigorous imprisonment for one year and to pay fine of Rs. 1,000/-. The petitioners preferred an appeal at a belated stage and there was delay of 46 days.

Upon perusal of impugnd judgment it appears that learned trial Court relied upon confessional statement of accused persons made before the RPF personnel after they were nabbed in course of raid which indicates the possibility of recording of order of conviction based on otherwise inadmissible evidence. In my view the petitioners have arguable the case. Balancing the right of the accused persons to have fair trial and fair justice and their obligation to prefer appeal within the prescribed time limit, I am of the view that delay of 46 days should be condoned subject to payment of cost of Rs. 20,000/- to be paid to the District Legal Services Authority, Paschim Medinipur within four weeks from date, failing which the learned

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trial Court shall have the liberty to take necessary steps to execute the order of conviction according to law.

Thus, this criminal revision is disposed of.  
Application, if any stands disposed of.

Let a copy of the order be sent to the learned trial Court for information and necessary action.  
Application are also disposed of.

All parties are to act on the server copy of this order duly downloaded.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

**( Siddhartha Roy Chowdhury, J. )**