

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

CRMSPL 32 of 2023
with
IA No. CRAN 1 of 2023

Biswanath Ghosh
-versus-
Chand Mohan Palui & Ors.

Mr. Achyut Basu
Mr. Kartik Chandra Kapas
Ms. Punam Basu
Mr. Somen Bose
Mr. Srikumar Chakraborty
... For the petitioner

Mr. Anowar Hossain
Ms. Ratna Ghosh
... For the State

Mr. Soumyajit Das Mahapatra
Ms. Madhurai Sinha
... For the opposite party no.2

In re: CRAN 1 of 2023

Affidavit of service filed in Court today is taken on record.

This application has been filed with a prayer for condonation of delay of 131 days in filing the Special Leave Petition to file appeal against the order of acquittal passed by the learned Judicial Magistrate, Ghatal, Paschim Medinipur, on 9th February, 2023.

Learned advocate on behalf of the petitioner has referred to the ground stated in the application, particularly, in paragraphs 3, 4 and 5 and submitted that the petitioner after the judgment of acquittal could not understand the remedy in law and then he approached the

learned advocate who advised him to prefer an appeal against the order of acquittal and in the meantime summer vacation commended in the High Court, Calcutta. Thereafter special leave to file appeal was filed before the High Court.

In opposition to that, learned advocate on behalf of the opposite party no.2 has relied on a case of **Chobban Mallick v. State of West Bengal**, reported in **2013 SCC OnLine Cal 13569** wherein a Single Bench of this Court observed with regard to the knowledge of order of acquittal from the date when the order is notified.

From the application for condonation of delay, I do not find any such averment regarding knowledge of the order of acquittal. However, Section 378(4)(5) of the Code of Criminal Procedure clearly says that limitation starts from the date of order of acquittal. Therefore, I do not find that the issue of knowledge is in question in this case.

However, considering the delay explained in the application, the prayer for condonation of delay is allowed. The delay is condoned.

The application, being CRAN 1 of 2023, stands disposed of.

In re: CRMSPL 32 of 2023

I have carefully perused the judgment of acquittal passed by the learned Judicial Magistrate, Ghatal, Paschim Medinipur, and leave is granted to prefer an appeal within the statutory period.

With the aforesaid observation, CRMSPL 32 of 2023 stands disposed of.

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

Criminal Section is directed to supply certified copy of this order, if applied for, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)