

April 28, 2023
AD – 32
Ct. 34
SG

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION

CRMSPL 47 of 2022
with
CRAN 1 of 2022

Central Bureau of Investigation
-versus-
Biswanath Biswas and others

Mr. Amajit De
... for the appellant.

Mr. Dilip Kumar Mukherjee
... for the opposite party No.1.

Mr. Baktiar Shah
... for the opposite party No.3.

Mr. Arnab Nandi
Mr. Anirban Tarafder
Mr. Arkaprabha Chowdhury
... for the opposite party No.4.

CRAN 1 OF 2022

Pursuant to the direction passed on 17.04.2023, Mr. Amajit De, learned advocate appearing for CBI/appellant produced the file maintained by office of the CBI.

I have perused the said file and I find that from early January, 2021 till late July, 2022 a particular lawyer was withholding a file for preparation of Section 5 and the application for special leave to appeal.

A substantial part of the period for which condonation of delay has been prayed, there were restrictions because of pandemic, this Court as such restrains itself from pronouncing the name of learned lawyer as revealed from the file of CBI.

I have also applied my mind regarding merits of the case and I find that learned Special Court amongst other held non compliance of Section 311A Cr.P.C.

According to the CBI investigation commenced in the year 1998 and charge-sheet was filed in the year 2001. So I am of the view that the prayer for condonation so made on behalf of CBI should be allowed in spite of vehement objections raised on behalf of private opposite party Nos.1, 3 and 4.

Accordingly, the delay of 1097 days which has occurred in preferring the application for special leave to appeal is condoned.

Consequently, CRAN 1 of 2022 is allowed.

CRMSPL 47 of 2022

As referred to above the subject matter of the judgment which is under challenge reflects mixed question of fact and law which may have effect on other cases of the prosecution. I find that there are just and sufficient reasons of the Applicant to pray for leave. The appellant/CBI is granted leave to prefer appeal within a period of 30 days from date.

Accordingly, CRMSPL 47 of 2022 is allowed.

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

(Tirthankar Ghosh, J.)

