03.10.2023
SL. 23
Court No. 29
Sourav

C.R.A. (DB) 251 of 2023

In Re: - An appeal under Section 21 of the National Investigation Agency Act, 2008.

And

In the matter of: **Ohab Hossain @ Vickey & Anr.**

....petitioners.

Mr. Anand Keshari
Ms. Sutapa Ghosh (Bose)

...for the petitioners.

Mr. Bhaskar Prosad Banerjee
Mr. Debasish Tandan

... for NIA.

1. Heard learned Counsel for the parties.

2. An initial objection is raised by Mr. Banerjee, learned Counsel appearing for the NIA regarding the maintainability of this appeal against the order of issuance of proclamation dated January 9, 2023 and April 11, 2023 on the ground of proviso 2 to sub-Section 5 of Section 21 of the NIA Act, 2008.

3. The aforesaid provisions reads thus:

"21. Appeals

(1)xxxx

(2)xxxx

(3)xxxx

(4)xxxx

(5) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from:

PROVIDED that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days:

PROVIDED FURTHER that no appeal shall be

entertained after the expiry of period of ninety days."

4. A cursory reading of the aforesaid provisions, make it clear that whatever be the cause, an appeal cannot be filed after expiry of 90 days and any plea either under Section 5 or Section 14 of the Limitation Act shall have no force to extend the period of limitation beyond 90 days.
5. Learned Counsel for the petitioner submits that against the order of proclamation, he had filed revision on May 17, 2023 under Section 482 Cr.P.C. and the same was dismissed on June 22, 2023 by the learned Single Judge with the observation that the said petition is not maintainable. After dismissal of the revision, the present appeal has been filed on August 14, 2023 with office report dated September 16, 2023 showing delay of about 61 days in filing the appeal.
6. Be that as it may, by the time the appeal was filed before this Court, maximum period of 90 days had already expired from the date of passing of the impugned order. In view of such fact, learned Counsel for the petitioner though quite vehement on his point, cannot take recourse to Section 14 of the Limitation Act in view of the provisions as contained in Section 21(5) of the aforesaid Act.
7. Accordingly, the appeal being **CRA (DB) 251 of 2023** is dismissed on the ground of limitation.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)