

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.250 of 2024

Arising Out of PS. Case No.-154 Year-2020 Thana- PATLIPUTRA District- Patna

-
-
1. SP
 2. JD (The Appellant No.1 is the brother and Appellant No.2 is the mother of the victim and therefore petition is filed in pseudonymous name. The name of the appellant(s) is also not disclosed in view of section of the Indian Penal Code And POCSO Act (The Affidavit and Vakalatnama is being filed in sealed enveloped)

... .. Appellants

Versus

1. The State of Bihar
2. Sunil Sahni, Son of Rameshwar Sahni, Resident of - Chero Bazaar, P.S. - Chero, District- Nalanda. At Present Road No.1, Baba Chawk, P.S. - Patliputra, District - Patna

... .. Respondents

Appearance :

For the Appellant/s	:	Ms. Akanksha Malviya, Advocate Mr. Akash Keshav, Advocate Ms. Dr. Shuchi Bharti, Advocate Ms. Surya Nilambari, Advocate
For the Respondent/s	:	Mr. Dilip Kumar Sinha, Addl PP
For the Resp No. 2	:	Mr. Munish Kumar, Advocate Mr. Minakshi Kumari, Advocate Mr. Munna Raj, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

6 14-08-2024

I.A. No. 2 of 2024

This is an application seeking condonation of delay of one year six months and twenty four days in filing of the present criminal appeal.

2. This appeal has been preferred against the judgment of acquittal dated 29.07.2022 passed by learned Additional Sessions Judge-VI-cum-Special POCSO Judge,

Patna in Special Case No. 72 of 2020 arising out of Patliputra P.S. Case No. 154 of 2020. The appeal has been presented in this Court on 24.02.2024.

3. For purpose of condonation of delay, learned counsel for the appellants has taken this Court through the reasons shown in the application, particularly, in paragraph '5' wherein it is stated that the appellants could not approach this Court on time on account of lack of legal knowledge, understanding and very limited resources. According to the appellants, their conditions had become more difficult during the Covid-19 pandemic, therefore, they could not approach this Court on time.

4. The application has been opposed by the Respondent No. 2 by filing a reply. It is stated that the reasons shown in the application for condonation of delay are not sufficient, much less cogent. Lack of legal knowledge of the appellants, understanding of law and very limited resources are neither sufficient nor cogent reason for condonation of delay of over one and half year. It is submitted that the Law of Limitation is a statute of repose and confidence and such huge delay of one year six months and twenty four days in filing of the appeal may not be condoned lightly as it would have a

tendency to cause hardship to the Respondent No. 2. By presenting an appeal after such huge delay, a person cannot be allowed to keep the matter pending *ad infinitum*.

5. It is pointed out that in the application seeking condonation of delay, there is no averment at all that the appellants were not aware of the judgment of acquittal passed by the learned trial court.

6. Mr. Dilip Kumar Sinha, learned Additional PP for the State has endorsed the submissions of learned counsel for the Respondent No. 2.

7. We have heard learned counsel for the parties and learned Additional PP for the State. On perusal of the application seeking condonation of delay, we find that there is no averment at all that the appellants were not aware of the judgment of acquittal passed by the learned trial court.

8. The only ground taken by the appellants may be found in paragraph '5' of the application which reads as under:-

“5. That the Hon’ble Court may consider that the Appellant could not approach this Hon’ble Court on time on the account of lack of legal knowledge, understanding and very limited resources. That it is stated in this regard that the condition of the appellants became more difficult in the when the unprecedented COVID-19

pandemic hit the world. And the condition of the appellants became worse due to which they could not approach this Hon'ble Court on time.

9. We further find that in paragraphs '6' and '7' of the reply filed on behalf of the Respondent No. 2, the submissions of the appellants have been vehemently opposed. We reproduce paragraphs '6' and '7' of the reply filed on behalf of Respondent No. 2 as under:-

"6. That the Contents of Para No. 3 of the Application is admitted to the extent stating that the order was passed on 29.07.2022 rest of the para are highly objected. Belonging to weaker section of society, having limited means to file appeal cannot be a justification to condone the delay; Even if it be taken into consideration the delay in present appeal is not of a months or days, it runs into 573 days, that means more than year and a half, which cannot be reasonably justified by any point of imagination and be condoned by the Hon'ble Court.

7. That the Contents of Para no. 4 is denied being vague and objected. Lack of legal knowledge of Appellant, understanding and very limited resource cannot be ground to condone the delay

without any reasonable justification. The Appellant in para under reply is stating that due to Covid- 19 pandemic the condition of appellants became difficult, but the same appellant has been contesting the trail of the present appeal during the peak of Covid-19 i.e. from 2020 to 2021 without any difficulty. The para is emphatically denied and creates no ground to condone the delay.”

10. There is no rejoinder to the reply filed on behalf of the Respondent No. 2.

11. We have given our anxious consideration to the reasons shown in the application for condonation of delay. We find that the ground of lack of legal knowledge of the appellants and understanding of law cannot be a legal and valid ground and acceptance of this ground as a cogent ground for condonation of delay would result in opening a ground for condonation of delay which would be easily available to any person at any time. It may also result in causing hardships to a person who has been found innocent or against whom the guilt has not been proved beyond all reasonable doubts. At the same time, the another ground with regard to limited resources, though the Court is considering this ground to condone delay of a reasonable period but this Court is of the considered opinion that the ground of

limited resources cannot be accepted to condone such huge delay of one year six months and twenty four days. In fact, Respondent No. 2 has submitted that the same appellants had been contesting the trial of the present appeal during the Covid-19 period without any difficulty. This statement of the Respondent No. 2 has not been controverted by the appellants by filing any rejoinder. The fact remains that the appellants have not taken a plea that they were not aware of the judgment of the learned trial court.

12. Keeping in view the aforesaid pleadings on the record, we are of the considered opinion that the appellants have not shown sufficient, much less a cogent reason for condonation of delay.

13. This interlocutory application being I.A. No. 2 of 2024 would fail. As a result, the appeal stands dismissed.

(Rajeev Ranjan Prasad, J)

(Khatim Reza, J)

lekhi/-

U		T	
---	--	---	--