

01.08.2024
Court No.29
Item No. 1

sg

CRMSPL 55 of 2023
CRAN 1 of 2023

Rakhi Dhar
Versus
Mira Dhar & Ors.

Mr. Partha Sarathi Das
Ms. Shanta Sarkar
Ms. Souraja De

For the appellant

1. This matter was heard on 30th July, 2024 when we passed an order condoning the delay and allowing the application for special leave to appeal ignoring the fact that in view of the proviso under Section 372 of the Code of Criminal Procedure, such leave is not required.
2. Before we sign the order, this mistake was detected and accordingly, the matter is listed today.
3. We find that the application for special leave to appeal is barred by limitation.
4. That apart, in view of the law declared by the Hon'ble Supreme Court in ***Mallikarjun Kodagali (dead) vs. The State of Karnataka & Ors.*** reported in ***(2019) 2 SCC 752***, we are of the opinion that the application seeking leave to appeal is unnecessary.
5. CRMSPL 55 of 2023 is dismissed as not maintainable.
6. Certified copy of the judgment and order of acquittal, if annexed to the application, shall be returned to the applicant-petitioner under replacing the same with the photocopy thereof.

7. In view of dismissal of CRMSPL 55 of 2023, no order needs be passed in CRAN 1 of 2023 and this application is accordingly, dismissed.
8. In the event, the applicant-petitioner files petition of appeal against the aforesaid judgment and order in accordance with law within a period of one month from date, period taken in pursuing this application shall be deducted for the purpose of calculating the period of limitation in filing the appeal in terms of Section 14 of the Limitation Act.

(Soumen Sen, J.)

(Uday Kumar, J.)