

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.995 of 2024

Arising Out of PS. Case No.-294 Year-2021 Thana- DAGARUA District- Purnia

Rakesh Kumar Roy Son of Shri Shivanand Roy Resident of Village-
Gunwanti, Ward No. 02, P.O.- Gunwanti, P.S.- Bousi, District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pramod Rajpati, Advocate

For the Respondent/s : Mr. Syed Mojibur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 16-07-2025 This is an application under Section 5 of the
Limitation Act filed by the petitioner praying for condonation of
delay by 319 days in filing the instant criminal revision.

2. It is pertinent at the outset to mention that the
petitioner being an accused of Supplementary Special Case
No.74 of 2021 challenged an order dated 10.10.2023 passed by
the learned Special Judge, N.D.P.S. Act, Purnea, whereby and
whereunder the learned Court below took cognizance of offence
against the petitioner under Section 8(c), 21(a) of the N.D.P.S.
Act, although, the Investigating Officer submitted final report
under Section 173 of the Cr.P.C. stating, inter-alia, that the
involvement of the petitioner could not be ascertained in
connection with the above-mentioned case.

3. Since, the revisional application was filed after the



expiry of the period of limitation, the instant application has been filed for condonation of delay. It is submitted by the petitioner that against the impugned order dated 10.10.2023, revision ought to have been filed within 08th January, 2024. However, the petitioner failed to file the instant revision assailing the order of cognizance taken by the learned Special Judge within the statutory period of limitation as he was not aware of the law of limitation governed in connection with filing of criminal revision.

4. It is also alleged by the petitioner that due to lack of information, knowledge and funds, the revisional application could not be filed within the statutory period of time. It is further pleaded by the petitioner that the petitioner had no intentional laches in filing the criminal revision after statutory period of limitation and therefore, delay in filing the revision may be condoned.

5. This Court has already stated that the criminal revision is barred by limitation by 319 days. The petitioner obviously has prayed for ignorance of law in support of his prayer for condonation of delay. When confronted with the issue that ignorance of law cannot be a ground for condonation of delay, the learned Advocate on behalf of the petitioner refers to



a judgment of the Hon'ble Supreme Court in the case of ***Just Rights For Children Alliance and Another Vs. S. Harish and others***, reported in ***2024 SCC OnLine SC 2611***.

6. The fact of the above-mentioned reported decision is completely different from the facts of the instant application under Section 5 of the Limitation Act. In the aforesaid reported decision charge-sheet was filed against respondent No.1 for the offence punishable under Section 15 of the POCSO Act and Section 67(b) of Information Technology Act. Amongst other defence, the accused/respondent No.1 took a plea that he was ignorant of the law contained in Section 15 of the POCSO Act, which prescribes punishment for storage of pornographic material involving child.

7. The Hon'ble Supreme Court was pleased to decide the plea in the light of the decisions of the Apex Court in ***Chandi Kumar Das Karmakar Vs. Abanidhar Roy***, reported in ***AIR 1965 SC 585*** and ***Motilal Padampat Sugar Mills Co. Ltd. Vs. State of Uttar Pradesh***, reported in ***(1979) 2 SCC 409***.

8. In para-211 of Just Rights For Children Alliance and Another (Supra), the Hon'ble Supreme Court held as herein under :-

“211. This may be better understood through a four-prong test wherein for a valid defence,



there must exist (1) an ignorance or unawareness of any law and (2) such ignorance or unawareness must give rise to a corresponding reasonable and legitimate right or claim (3) the existence of such right or claim must be believed bonafide and (4) the purported act sought to be punished must take place on the strength of such right or claim. It is only when all the four of the above conditions are fulfilled, that the person would be entitled to take a plea of ignorance of law as a defence from incurring any liability”

9. In the instant case, ignorance of law was not taken by the petitioner as a defence. On the other hand, it was taken as a ground for condonation of delay. Even assuming that the petitioner was ignorant about the law of limitation, such ignorance does not give rise to a corresponding reasonable and legitimate right of claim. In other words, ignorance of law of limitation does not give rise to a legitimate right to the petitioner to file a revisional application even after expiry of the period of limitation. The petitioner failed to prove that it was his bonafide believe that law of limitation is not applicable in case of criminal revision. The revisional application was filed challenging legality, propriety and validity of an order of cognizance taken against the petitioner for the offence punishable under NDPS Act. The impugned order could not be challenged on the strength of any right allegedly acquired by the



petitioner.

10. Therefore, the principles laid down in Just Rights For Children Alliance and another by the Hon’ble Supreme Court is not applicable under the facts and circumstances of this case.

11. For the reasons stated above, this Court finds that the petitioner failed to explain delay in filing the instant revision. Accordingly, the application under Section 5 of the Limitation Act is dismissed.

12. With the dismissal of the application under Section 5 of the Limitation Act, the revisional application is also dismissed.

(Bibek Chaudhuri, J)

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