

17.01.2025.
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Ct.No. 28
Sl. No. 40

C.R.A. (DB) 362 of 2024
CRAN 1 of 2024

In Re: An application under Section 374(2) of the Code of Criminal Procedure.

And

In Re: **Nadeem Ahamed** appellant

Mr. Kaushik Choudhury
... for the appellant

1. There is delay of 1183 days in preferring the appeal. In paragraph 4 of the application for condonation of delay it is contended delay is due to appellant's financial crisis. It is also contended initially appellant collected certified copy of the impugned judgment but the certified copy was incomplete and the sentencing portion was missing. As a result, he had to re-apply and obtain copy of the judgment and order of conviction and sentence afresh. After obtaining the same, he preferred the present appeal.
2. We are unable to satisfy ourselves with the flimsy explanation offered by the appellant with regard to the plea of financial stringency. It is relevant to note at the end of the judgment, the Trial Court recorded the appellant had been informed of his right to prefer an appeal with legal aid from High Court Legal Services

Committee. Appellant has not disputed this fact and no explanation is offered why he did not approach the High Court Legal Services Committee earlier for legal aid to prefer an appeal. The other issue of the earlier certified copy being bereft of the sentencing portion is also not convincing. Supplementary affidavit has been filed by the appellant enclosing the earlier certified copy. The certified copy is of the judgment and order of conviction dated 24.08.2021. Last page of the said certified copy shows the date was fixed for awarding sentence on 26.08.2021. No explanation is offered why the appellant had not applied for the said order simultaneously.

3. Be that as it may, the earlier certified copy had been procured in September, 2021 and no effort was made to obtain the certified copy of the sentencing portion for 3 years. Explanation offered by the appellant is wholly unfounded and not sustainable. In the meantime, co-convict had preferred an appeal being *CRA 325 of 2021* against the self-same judgment and order. A co-ordinate Bench of this Court by judgment and order dated 23.09.2022 dismissed the appeal on merits. After passing of the said order, the present appeal has been preferred. As discussed earlier, explanation offered for the delay in preferring the appeal is most flimsy and cannot be condoned.

4. Accordingly, the application for condonation of delay is dismissed. Consequentially, the appeal is also dismissed as barred by limitation.

(Uday Kumar, J.)

(Joymalya Bagchi, J.)