

THE HIGH COURT OF SIKKIM : GANGTOK

(Criminal Appeal Jurisdiction)

DATED : 20th September, 2018

SINGLE BENCH : THE HON'BLE ACTING CHIEF JUSTICE MRS. JUSTICE MEENAKSHI MADAN RAI

I.A. No.01 of 2018 in Crl.L.P. No.03 of 2018

Appellant : State of Sikkim

versus

Respondent : Nandaram Chettri,
S/o Late Nir Bahadur Chettri,
R/o Dodak,
West Sikkim.

Application for condonation of delay
under Section 5 of the Limitation Act, 1963

Appearance

Mr. Karma Thinlay and Mr. Thinlay Dorjee Bhutia, Additional Public Prosecutors with Mr. S. K. Chettri and Mrs. Pollin Rai, Assistant Public Prosecutors for the State-Petitioner.

Ms. Puja Lamichaney, Advocate for the Respondent.

O R D E R (ORAL)

Meenakshi Madan Rai, ACJ

1. The State-Appellant seeks condonation of forty-five days delay in filing the Petition for Leave to Appeal. The grounds enumerated therein are that –

After the impugned Judgment was passed by the Learned Special Judge (POCSO), West Sikkim, at Gyalshing, on 21-02-2018, in Sessions Trial (POCSO) Case No.21 of 2016, certified copy of the impugned Judgment was made available to the Prosecution on 22-

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02-2018. The Leave to Appeal thus ought to have been filed on 23-05-2018. However, on receipt of the impugned Judgment a proposal was mooted by the Court Inspector, West District, on 03-03-2018 to file an Appeal which was forwarded to the Additional Director General of Police (ADGP), Law and Order, Sikkim Police and the matter deliberated in the Police Department till 20-03-2018. It was forwarded to the Additional Advocate General on the same day, on 21-03-2018, the File was then forwarded to the Senior Government Advocate for examining the grounds of Appeal and re-routed to the Additional Advocate General who then forwarded the File to the Director General of Police (DGP) with a request to furnish the required documents and for Government approval. A month later the DGP took necessary steps viz; on 21-04-2018 and forwarded the File to the Additional Chief Secretary-cum-Home Secretary for approval of the Chief Secretary and the final approval was accorded by the Government on 12-05-2018. Thereafter, the File was returned to the Chief Secretary on 14-05-2018 who forwarded it to the DGP on 19-05-2018, who in turn sent it to the ADGP, Law & Order, which was then sent to the Senior Superintendent of Police (SSP), West Sikkim. This Officer forwarded the File to the Law Officer of the Police Department on 26-05-2018 which was again received by the Office of the Advocate General and necessary steps taken following which the Appeal came to be filed on 07-07-2018. It was submitted that the grounds are *bona fide* and the delay was neither intentional nor wilful but occurred due to the official procedure involved and has been sufficiently explained hence, the delay be condoned in the interest of justice.

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2. Learned Counsel for the Respondent vehemently objected to the prayer for condonation *inter alia* on grounds that sufficient reasons have not been put forth to condone the delay on which ground itself the Petition deserves no consideration and ought to be dismissed.

3. I have considered the submissions of Learned Counsel for the parties and traversed the contents of the Application.

4. It is evident that the File had to be routed from one Office to the next and it is well-known that Files are not processed on time by the concerned Officers reflecting lackadaisical attitude towards matters of importance. In my considered opinion, matters pertaining to filing of Appeals in criminal matters ought to be given the priority it deserves in view of the issues involved which was unfortunately has not been done in the instant matter.

5. Nevertheless since the Appellant has detailed dates with grounds for the delay and considering the lengthy process that was required for according approval, I am of the considered opinion that the delay has been sufficiently explained.

6. In this view of the matter and with the object of meting out substantial justice, the delay of forty-five days is condoned.

7. Petition accordingly allowed and disposed of.

**(Meenakshi Madan Rai)
Acting Chief Justice**

20-09-2018

Approved for reporting : **No**

Internet : **Yes**