

Petitioner Vs. Respondent

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Court : Chennai

Decided On : Nov-01-2016

Judge : M. Venugopal

Appeal No. : Crl.M.P. No. 11446 of 2016 In Crl.A.Sr. No. 45965 of 2016

Appellant : Petitioner

Respondent : Respondent

Judgement :

M. Venugopal, J.

1. Heard Mr.R.Anbukarasu, Learned counsel for the Petitioner/ Appellant and Mr.R.Ravichandran, Learned Government Advocate (Crl. Side) for the Respondent/Complainant.
2. The Petitioner/Appellant/Sole Accused has preferred the instant Criminal Appeal before this Court with a delay of 305 days, being dissatisfied with the Judgment dated 27.10.2015 in S.C.No.106 of 2012 passed by the Learned Principal Sessions Judge, Namakkal.
3. According to the Learned Counsel for the Petitioner/Appellant, the Petitioner is very poor and working as Painter on daily wage basis and in the present case, he was convicted by the trial Court and accordingly, he was lodged in Jail.

Furthermore, he was not in a position to raise sufficient funds to engage a counsel to prefer an 'Appeal' against the Judgment of the trial Court, since no family members helped him in this regard. Also, since he was in Jail, he was not in a position to contact his counsel to file the present Criminal Appeal in time.

4. In response, the Learned Government Advocate (Crl. Side) appearing for the Respondent/Complainant submits that the trial Court found the Accused guilty under Sections 366, 376(2)(6) I.P.C. and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. However, the Accused was found not guilty in respect of an offence under Section 3(1)(x) of the Act. Also, the Petitioner/Appellant was imposed with a total fine of Rs.15,000/-. In short, the plea of the Respondent/Complainant is that before the trial Court, on behalf of the Prosecution, witnesses P.W.1 to P.W.15 were examined and Exs.P.1 to P.20 were marked. Also, M.O.1 to M.O.3 were marked. On the side of Defence, no one witness was examined and no document was marked.

5. As a matter of fact, it is the stand of the Respondent/ Complainant that the trial Court had analysed and appreciated the entire oral and documentary evidence available on record and ultimately, found the Petitioner/Appellant guilty in terms of Sections 366, 376(2)(6) I.P.C. and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act and imposed the necessary punishments.

6. The Learned Government Advocate (Crl. Side) for the Respondent/Complainant takes a plea that the reasons ascribed by the Petitioner/Appellant at para 3 of the affidavit in Crl.M.P.No.11446 of 2016 in Crl.A.Sr.No.45965 of 2016 to the effect that the Petitioner is very poor and working as Painter for daily wages etc. are not bona fide, genuine and as such, the delay of 305 days, which had occurred in the present case on hand, may not be condoned by this Court, in the interest of Justice.

7. It is to be noted that when a Court of Law deals with a Petition/ Application for 'Condonation of Delay', ordinarily, it is to adopt a lenient and liberal approach and in short, it was not adopt a pedantic approach or a hyper technical approach etc. By taking a lenient and liberal view and condoning the delay, the maximum thing

that would happen is there is a possibility of the Petitioner/Appellant taking part in the main arena of proceedings. Per contra, if the Petition is thrown out at the early stage, then, there is an even possibility that a meritorious case can also be thrown out, without providing an opportunity to the aggrieved/affected person.

8. It is to be remembered that no litigant/party prefers an Appeal/ Revision as the case may be with a deliberate delay for the simple reason that he/she runs a serious risk, if it is done in that fashion.

9. Be that as it may, considering the fact that the Petitioner/ Appellant come out with a plea in Crl.M.P.No.11446 of 2016 to the effect that he is very poor and working as Painter for daily wages and also that, no one of his family members had helped him to engage a Lawyer to prefer 'Appeal' as against the Judgment dated 27.10.2015 in S.C.No.106 of 2012 passed by the trial Court, this Court, by taking a lenient and liberal view and also to deliver substantial Justice to the parties, condones the delay of 305 days in preferring the instant Crl.A.Sr.No.45965 of 2016, subject to the condition that the Petitioner/ Appellant/Accused shall pay a sum of Rs.3000/- (Rupees Three Thousand Only) to the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras, within a period of two weeks from day, failing which, it is made clear that the Petition shall stand dismissed automatically without any further reference to this Court.

10. In fine, the Crl.M.P.No.11446 of 2016 is allowed.

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