

Petitioner Vs. Respondent

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Court : Chennai

Decided On : Oct-18-2016

Judge : M. Venugopal

Appeal No. : Crl.M.P. No. 10867 of 2016 In Crl.A.SR. No. 43807 of 2016

Appellant : Petitioner

Respondent : Respondent

Judgement :

M. Venugopal. J,

1. Heard Ms.S.Karthika, Learned counsel for the Petitioner/Appellant/Accused and Mrs.M.F.Shabana, Learned Government Advocate (Criminal Side) for the Respondent.

2. The Petitioner/Appellant/Accused has focused the instant Crl.M.P.No.10867 of 2016 for passing of an order by this Court to condone the delay of 145 days in preferring the Crl.A.SR.43807 of 2016. Admittedly, the Petitioner/Appellant/Accused has preferred the present Appeal as an aggrieved person, as against the judgment in S.C.No.223 of 2014 dated 15.03.2016 passed by the Learned I Additional District and Sessions Judge, Coimbatore. As a matter of fact, the Petitioner/Appellant/Accused was convicted in respect of an offence under Section 304(ii) of IPC and was sentenced to undergo five years Rigorous Imprisonment and further, he was imposed with a fine of Rs.2000/-, in default of

payment of the said fine amount, he was further directed to undergo three months Simple Imprisonment.

3. The reason for the delay of 145 days in preferring the instant Criminal Appeal before this Court has projected on the side of the Petitioner/Appellant is that he is a poor agricultural coolie and was not in a position to mobilise funds for preparing the relevant papers in time. His friends and relatives had arranged the funds and he filed the present Appeal with a delay of 145 days. Therefore, the stand of the Petitioner/Appellant is that the delay of 145 days that had occasioned in the present case is neither wilful nor wanton but due to the aforesaid reasons. Per contra, it is the submission of the Learned Government Advocate (Crl. Side) that the trial Court delivered its judgment in S.C.No.223 of 2014 on 15.03.2016 and that the Petitioner/Appellant/Accused is not quite diligent enough to prefer the Appeal well in time as specified under Criminal Procedure Code. However, he had chosen to file the present Appeal with a delay of 145 days and the reasons assigned thereto in Crl.M.P.No.10867 of 2016 to the effect that he is a poor agricultural coolie and could not mobilise funds for preparing the above Appeal in time are not bona-fide and are only invented for the purpose of filing the present case.

4. This Court has perused the materials available on record and also noticed the contentions of the Learned counsel for the Petitioner and the Learned Government Advocate for the Respondent.

5. It is to be noticed that when a 'Court of Law' deals with an Application/Petition for condonation of delay in a given case, then, ordinarily, it is to adopt a lenient and liberal view. The maximum thing that would happen is, a delay in question would be condoned and there is even a possibility for the Petitioner to take part in the main arena of proceedings and his case/cause being decided on merits. Per contra, if the delay in question is not condoned, there is a possibility that even a meritorious case may be thrown at the threshold.

6. It cannot be forgotten that generally, no litigant/party would prefer an Appeal/Revision with a deliberate delay. In fact, if he/she does so, then he/she runs a serious risk.

7. Be that as it may, considering the fact that the Petitioner/Appellant/Accused in the affidavit in Crl.M.P.No.10867 of 2016 has come out with a plea that he is a poor coolie and could not mobilise funds for preferring the Appeal in time and now his friends and relatives had arranged the funds and with the same, he had preferred the present Appeal with a delay of 145 days, this Court, by taking a lenient and liberal view and not adopting either a pedantic approach or a hyper technical approach, by adopting a practical, purposeful, meaningful, pragmatic and with a rational approach, condones the delay of 145 days to sub serve the cause of justice, of course, with a rider that the Petitioner/Appellant/Accused shall pay a costs of Rs.1500/- (Rupees One Thousand Five Hundred Only) to the Tamil Nadu State Legal Services Authority (attached to this Court) on or before 16.11.2016, failing which, it is made clear that the Petition shall stand dismissed automatically without any further reference to this Court.

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