

Petitioner Vs. Respondent

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Court : Chennai

Decided On : Oct-05-2016

Judge : M. Venugopal

Appeal No. : Crl.M.P.No. 7849 of 2016 in Crl.A.SR.No. 31197 of 2016

Appellant : Petitioner

Respondent : Respondent

Judgement :

M. Venugopal, J.

1. Heard Mr.K.Prabhu, Learned for the Petitioner/Appellant; Mr.R.T.L.Chandar, Learned Counsel for Respondents 1 and 2/A1 and A2 and Mr.B.Ramesh Babu, Learned Public Prosecutor (Crl. Side) for the 3rd Respondent/Complainant. No counter affidavit is filed on behalf of the 3rd Respondent.

2. According to the Petitioner/Appellant/Victim (P.W.6), the copy of the Judgment in S.C.No.123/2010 dated 28.09.2015 was received on 16.10.2015 by the Petitioner and preferred an Appeal on 22.07.2016 with a delay of 228 days.

3. The reason ascribed on behalf of the Petitioner/Appellant for the delay of 228 days is that she belongs to a Scheduled Tribe Community and also an uneducated person. Furthermore, she has no knowledge about the relief that she can obtain

from this Court by means of an Appeal. Moreover, it is projected on the side of the Petitioner that the Petitioner along with her family had spent a considerable long time to look after other legal formalities of their 'Release from Bondage'.

4. Added further, it is the version of the Petitioner that they earned a living as a 'Daily Coolie' and further, they do not have financial capability to look after the Appeal. Hence, there has occasioned a delay of 228 days in preferring the instant Appeal which is neither wilful nor wanton but due to aforesaid reason.

5. Per contra, it is the submission of the Learned Counsel for the Respondents 1 and 2/A1 and A2 that the reasons mentioned on behalf of the Petitioner for the delay of 228 days in preferring the present Appeal are frivolous and unsustainable one. Further, it is the stand of the Respondents 1 and 2/A1 and A2 that 'Limitation' is a valuable right accrued to a successful party to the litigation and in the instant case, Respondents 1 and 2/A1 and A2 were acquitted.

6. In effect, the pith and substance of the plea of the Respondents 1 and 2 is that no plausible reason was mentioned in the affidavit in Crl.M.P.No.7849 of 2016 filed by the Petitioner/ Appellant and as such, the Crl.M.P.No.7849 of 2016 is to be dismissed by this Court in the interest of Justice.

7. The Learned Public Prosecutor for the 3rd Respondent/ Complainant that the reasons attributed on behalf of the Petitioner for the delay of 228 days in preferring the present Appeal are not bona fide and genuine one and as such, they are unworthy of acceptance by this Court.

8. At this stage, it is to be noted that when a Court of Law deals with an Application/Petition for condonation of Delay, then, it is to adopt a lenient and liberal approach and not to adopt either a pedantic approach or a hyper technical or technical approach overriding technicalities. In this connection, if the delay in question is condoned by a Court of Law, the maximum thing that would happen is that an opportunity will be provided to a party to take part in the main arena of proceedings and resultantly, the main case can be decided on merits. However, if the Delay Condonation Petition is dismissed at the nascent stage, there is a possibility that even a meritorious case being thrown out at the threshold.

9. It cannot be forgotten that ordinarily, no litigant/party would prefer an Appeal/Revision proceedings with a deliberate delay. In fact, he or she runs a serious risk in doing so.

10. Be that as it may, in view of the fact that the Petitioner/ Appellant has taken a stand in Crl.M.P.No.7849 of 2016 in Crl.A.Sr.No.31197 of 2016 to the effect that she is an uneducated, belongs to Scheduled Tribe Community and no knowledge about the relief that she can obtain from the Hon'ble High Court etc., at this stage, this Court, without delving deep into the merits of the matter, simpliciter, by adopting a practical, purposeful, pragmatic and a meaningful approach, condones the delay of 228 days with a rider that the Petitioner/Appellant shall pay a cost of Rs.2000/- to the Tamil Nadu State Legal Services Authority, High Court, Madras on or before 04.11.2016, failing which, it is made clear that the Petition shall stand dismissed automatically without any further reference to this Court.

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