

State of Karnataka Vs. Farooq

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Court : Karnataka

Decided On : Nov-19-1996

Reported in : 1997CriLJ1224; 1997(2)KarLJ252

Judge : H.N. Narayan and; M.F. Saldanha, JJ.

Appeal No. : Criminal Appeal No. 693 of 1996

Appellant : State of Karnataka

Respondent : Farooq

Advocate for Pet/Ap. : S.P.P.

Judgement :

ORDER

1. The State of Karnataka is required to prefer appeals against several orders of acquittal or against orders where the sentences are inadequate because a scrutiny of the record and the judgment prima facie indicates that a miscarriage of justice has occurred. There are, in the majority of cases, instances of delay and it is a pre-requisite for the appeal to be entertained, that it must be accompanied by an application for condonation of delay. An earlier Division Bench of this Court had occasion to examine the issue and to find that, in June 1996, there were about 200 such cases pending where despite efforts by the learned Public Prosecutors in the High Court, both written and telephonic, that there was no response from the concerned officers and hence, the applications for condonation of delay could not

be filed. We notice a particular pattern emerging and we do not rule out the possibility that the accused themselves who are beneficiaries, are instrumental in ensuring that this state of affairs takes place. The non-cooperation on the part of the concerned officers is the surest indication that such a corrupt practice is prevalent. It is embarrassing for the learned Public Prosecutors in the High Court to have to keep sending reminders and requesting the Court for time again and again, when deliberate efforts are made to sabotage the appeal at lower quarters. In this background, it has become necessary for us to issue the following directions :-

(a) That the Law Department of the State of Karnataka shall inform the Officers concerned in all the districts, that unless there is very valid ground, that they will be held personally responsible for any delay in the presentation of the appeals and if delay has occurred, that the officers shall personally ensure that they take all necessary steps within the prescribed time to explain the delay.

(b) The Law department, while forwarding the papers to the High Court for preferring an appeal, shall indicate the name and full particulars of the concerned Officer and shall, while examining the matter, if any delay has occurred, itself inform the officer to ensure that the application for condonation of delay is drafted out and filed along with the appeal. If for any reason, this is not done, the Law Department shall inform the Officers concerned that they shall forthwith respond to the communications from the Officer of the Public Prosecutor, High Court, for purposes of filing such applications.

(c) Since it is clear to us that such non-cooperation is not only negligent, but in the majority of cases, something much deeper than that, in those of the cases where the concerned Officers still default, the Law Department shall take disciplinary action against the Officers personally and shall deal with them rigorously.

2. A copy of this order shall be forwarded to the Minister of Law, Government of Karnataka and to the Secretary of the Department as also to the Director of Prosecutions and each of them shall acknowledge the receipt of the High Court Order and confirm to the Registrar General that the directions have been noted and that the same will be implemented.

3. Order accordingly.

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