

(2019) 12 PAT CK 0186

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 4839 Of 2019

Hasmuddin @ Md. Hasmuddin And Ors

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 16-12-2019

Acts Referred:

Indian Penal Code, 1860 — Section 323
Probation Of Offenders Act, 1958 — Section 3, 11(2)
Limitation Act, 1963 — Section 5

Citation : (2019) 12 PAT CK 0186

Hon'ble Judges : Birendra Kumar, J

Bench : Single Bench

Advocate : Lokesh Kumar Singh, Binod Bihari Singh

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.
2. The appellants have been found guilty for offence under Section 323 of the Indian Penal Code by the learned Sessions Judge and have been ordered to be released after due admonition under Section 3 of the Probation of Offenders Act. The said judgment and order was passed on 14.03.2019 in Sessions Trial No.651 of 2016, arising out of Gopalganj P.S. Case No.292 of 2015.
3. The appeal is barred by limitation and a petition under Section 5 of the Limitation Act vide I.A. No.1 of 2019 has been preferred by the appellants for condonation of delay.
4. This appeal has been preferred under Section 11(2) of the Probation of Offenders Act, 1958. It should have been preferred within a period of sixty days. It appears that the appellants applied for certified copy of the impugned judgment on 29.05.2019 and it was received on 14.06.2019 though it was ready on 12.06.2019. Thus, the period of limitation had already expired prior to filing of a petition for obtaining certified copy. In paras-3 and 4 of the petition under

Section 5 of the Limitation Act, the appellants have stated as follows:

"That after procuring the certified copy, the appellants consulted their lawyer for filing the instant appeal at Patna. After getting suggestion from the lawyers, the pairvikar of the case informed the appellants about the process of filing of the appeal.

That the appellants in arranging the money found some difficulty. But later on, the money was arranged and they handed over the respective file to the respective counsel. In doing so, the limitation in filing the appeal has expired. In the result, the appeal was filed on 17.10.2019."

5. Evidently, the period of limitation which had already expired prior to filing of application for obtaining certified copy has not been explained. Hence, the same cannot be condoned. Accordingly, this appeal is dismissed as barred by limitation.