
(2014) 05 JH CK 0012

In the Jharkhand High Court

Case No : I.A. No. 1105 of 2014 and Cr. Appeal (D.B.) No. 71 of 2014

Ramesh Kumar

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 06-05-2014

Acts Referred:

Limitation Act, 1963 — Section 5

Penal Code, 1860 (IPC) — Section 304, 34, 376(2g)

Citation : (2014) 3 JLJR 296

Hon'ble Judges : Dhirubhai Naranbhai Patel, J; Amitav Kumar Gupta, J

Bench : Division Bench

Advocate : Rakesh Kumar, Advocate for the Appellant

Judgement

Dhirubhai Naranbhai Patel, J.—This application has been preferred under Section 5 of the Limitation Act for condonation of delay of 2069 days in preferring this Criminal Appeal. Counsel appearing for the appellant has submitted that this appellant is in Birsa Munda Central Jail, Ranchi and for the reasons stated in paragraph Nos. 4 and 5, there are reasonable reasons for condonation of delay so that appeal may be condoned and may heard for Admission.

2. Counsel for the State has no objection.

3. Having heard the learned counsel for both the sides and looking to the facts and reasons stated in this interlocutory application, it appears that:--

"(i) Learned Sessions Judge, Latehar has delivered the judgment in Sessions Trial No. 9 of 2003 on 19.3.2008 and convicted this appellant for the offence punishable under Section 376(2g) of the I.P.C. for life imprisonment and 10 years R.I. for the offence punishable under Section 304 Part-II of the I.P.C. read with Section 34 thereof and he is also imposed fine of Rs. 5,000/- (Rs. five thousand) and in case of default further R.I. for six months has been awarded.

(ii) Time and again this Court has directed the State that if within reasonable period of time the appeal is not preferred, it is the duty of the Superintendent of

the concerned Central Jail to inform Jharkhand State Legal Services Authority to prefer an appeal, but, due to lethargic approach of the Superintendent of Birsa Munda Central Jail, Ranchi in more than two dozen cases including the present one, is not informing Jharkhand State Legal Services Authority and therefore, there is delay of 2069 days. It is now high time for the State to take action against the Superintendent of Birsa Munda Central Jail. Ranchi.

(iii) It has become fashion in the State of Jharkhand that those who are In-charge of the Jails not to pay attention/request of this Court that if within reasonable time appeal is not preferred, the Superintendent of the Central Jail or other jails may contact either Jharkhand State Legal Services Authority or District Legal Services Authority or Legal Aid Clinic which is opened in every jail of the State. It appears that without proper and effective administrative action and disciplinary action perhaps the Superintendent of concerned jails will never appreciate the direction of this Court. Time and again directions have been given to the Superintendent of Central Jail to inform JHALSA for appeal to be preferred, for those convicts who could not prefer it, within reasonable time after period of limitation is over. For example in I.A. No. 1105 of 2013 in Cr. Appeal (D.B.) No. 1088 of 2012 (para-3) order dated 6.3.2012 likewise several orders have been passed. These directions have been violated by Superintendent, Central Jail, Ranchi. We therefore, issue contempt notice in Form No. 1 under Rule 393 of the High Court of Jharkhand Rules. 2001 and the Superintendent of Birsa Munda Central Jail shall remain personally present before this Court tomorrow i.e. on 7.5.2014.

(iv) Learned A.P.P. who is appearing in this matter shall convey the order to the Superintendent of Birsa Munda Central Jail, Ranchi."

4. The matter is adjourned to be listed on 7.5.2014. Copy of this order be sent by the Registrar General of this Court to:--

"(a) Chief Secretary of the State,

(b) Secretary, Home Department,

(c) I.G. (Prison), as well as to

(d) The Superintendent of Birsa Munda Central Jail, Ranchi."