

(2022) 11 CHH CK 0042
In the Chhattisgarh High Court
Case No : Criminal Revision No. 206 Of 2021

Tarachand Rathore

APPELLANT

Vs

Ishwar Traders Pro Ishwar Prasad Sahu

RESPONDENT

Date of Decision : 16-11-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 357(3)
Limitation Act, 1963 — Section 5

Citation : (2022) 11 CHH CK 0042

Hon'ble Judges : Deepak Kumar Tiwari, J

Bench : Single Bench

Advocate : HS Patel, Sumit Shrivastava

Final Decision : Allowed

Judgement

1. This petition has been filed against the order dated 30.1.2021, (filing No.159/2021) passed by the Sessions Judge, Janjgir Champa, arising out of judgment dated 31.12.2018 passed in complaint Case No.87/2017 by the Judicial Magistrate, 1st Class, Janjgir convicting and sentencing the petitioner as under:-

CONVICTION

SENTENCE

Under Section 138 of the Negotiable Instrument Act,

Till rising of the Court

Under Section 357 (3) CrPC

Payment of compensation of Rs.6 lakhs, failing which SI for 6 months

2. Shri HS Patel, learned counsel for the petitioner would submit that the learned appellate Court has committed serious error of law in dismissing his appeal against the conviction only on the ground of limitation, though the petitioner has been awarded sentence till rising of the Court, but further directed to pay

compensation of Rs.6 lakhs under Section 357 (3) of the CrPC and in default of payment of compensation, 6 months SI was awarded. The petitioner has also not paid the compensation amount, therefore, he was sent to jail and after obtaining legal aid, he had filed a jail appeal on 8.1.2020 in which application for condonation of delay has been filed. However, the appellate Court has adopted a hyper technical approach and dismissed the appeal, which is otherwise had a very good case on merit. It is settled principles of law that the appeal should be decided on its own merits and normally condonation of delay has to be construed liberally. Thus, learned counsel prays to allow the Revision and set aside the impugned order.

3. Per contra, learned counsel for the respondent/complainant would support the impugned order. Alternatively, he would submit that the petitioner has not deposited any amount. He would further submit that under the statute certain amount has to be deposited for consideration of appeal. Considering all these aspects, the revision deserves to be dismissed.

4. Having considered the submissions, further considering the fact that the petitioner was sent to jail for non-payment of compensation amount and after obtaining legal aid, filed jail appeal and that the expression sufficient cause in Section 5 of the Limitation Act must receive a liberal construction so as to advance substantial justice and generally delays in preferring appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bonafides is imputable to the party seeking condonation of delay, this Court is of the view that the approach of the appellate Court appears to be not proper. Accordingly, delay in filing the appeal is condoned. The matter is remitted back to the concerned Court for deciding the appeal on its own merit, in accordance with law.

5. For the foregoing, the instant Revision is allowed.