

Criminal Revision No.219 of 2023

CNR – WBCS01-000899-2023

Present: Sri Soumendra Nath Das,
Chief Judge,
City Sessions Court, Calcutta,
JO Code No.WB01132.

Order No.05 dated 22.11.2023

Today is fixed for hearing of the petition filed u/s 5 of the Limitation Act.

Ld. Advocate for the revisionists is present by filing hazira.

Ld. Advocate for the O.P no.1/State files hazira.

Ld. Advocate for the O.P no.2 is present by filing hazira.

Record is taken up for hearing of the petition filed u/s 5 of the Limitation Act, 1963.

Ld. Advocate for the revisionist submits that the impugned order was passed on 21.11.2022 and certified copy of the impugned order dated 21.11.2022 was applied on 23.08.2023 and the same was ready and delivered on 24.08.2023 and there is delay of more or less 199 days for filing the instant revision.

Ld. Advocate for the revisionist further submits that the revisionists came to know about the instant matter from one of the co-accused who received summons and on knowing the same the revisionist applied for certified copy of the same and after getting the same filed the instant revision and for which there has been a delay of 199 days for filing the instant revision and he prays for condonation of the delay.

Ld. Advocate for respondent No.1/State left the matter upon the discretion of the Court.

Ld. Advocate for respondent No.2 submits that after receiving the notice it would have been appropriate for the revisionist/accused to appear before the Ld. Court below than to prefer the instant revision with petition u/s. 5 of the Limitation Act and there should be specific grounds for filing the petition u/s. 5 of the Limitation Act and so he prays that the petition filed u/s. 5 of the Limitation Act is not to be entertained by this Court.

Heard Ld. Advocate for the revisionist.

Perused the petition filed u/s 5 of the Limitation Act and other materials on record from where it reveals that the impugned order was passed on 21.11.2022 and the revision was required to be filed within 90 days but the revision was filed on 08.09.2023.

Record also reveals that the certified copy was applied on 23.08.2023 and the same was ready and delivered on 24.08.2023 and there was a delay of more or less 199 days.

Law enjoins that the revision, or for that matter, any case should be disposed of on merit rather than rejecting the same on mere technical grounds. A petition u/s 5 of the Limitation Act should be construed liberally and the revisionist should be given an opportunity to make their submission in support of the revision on merit.

In the circumstances and upon consideration of the submission of all the parties, the instant petition u/s 5 of the Limitation Act is required to be allowed in the interest of justice.

Hence, it is

ordered

That the instant petition be considered and allowed on contest but with cost of Rs. **3000/-** to be paid to the District Legal Services Authority, Kolkata.

Delay in filing the revision be condoned on payment of cost.

Fix **15.12.2023** for payment of cost and if cost is paid in terms of the instant order then, the record will be taken up for hearing on the point of admission.

Dictated & corrected by me

Chief Judge,
City Sessions Court, Calcutta.

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