



2026:CGHC:9506



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 269 of 2020

- Devendra Singh Sibbal S/o Mahendra Singh Sibbal Aged About 45 Years
R/o Shuam Nagar Raipur, Police Station Telibandha, Tahsil And District
Raipur Chhattisgarh., District : Raipur, Chhattisgarh

... Applicant

versus

1 - Ajay Surana S/o Fulchand Surana Aged About 48 Years R/o Jawahar Chowk Durg, Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh

2 - Suresh Kothari S/o A.K. Kothari, Aged About 57 Years R/o Jawahar Chowk Durg, Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh

3 - Mahend Sancheti S/o Manvi Lal Sancheti Aged About 50 Years R/o Apapura Durg, Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh

4 - State Of Chhattisgarh Through The District Magistrate, Durg, Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh

... Non-Applicants

For Applicant : Mr. Jitendra Gupta, Advocate

For Non-Applicants : Mr. Avinash Chand Sahu, Advocate
No. 1 to 3

For State : Mr. Suresh Tandon, Panel Lawyer

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

24.02.2026

1. The applicant has filed the present criminal revision challenging the impugned order dated 13.12.2019 (Annexure A/1) passed by learned



Fourth Additional Sessions Judge, Durg (C.G.) in Criminal Appeal No. 2396/2019 whereby learned Court below has dismissed the appeal filed by applicant on the ground of limitation.

2. The brief facts of the case are that on the complaint filed by the applicant criminal case under Section 420, 467/34 of I.P.C. was registered against the accused/respondents No. 1 to 3. After investigation, the prosecution agency has filed charge-sheet. Learned trial Court concluded the trial and acquitted the respondents vide judgment dated 21.06.2019. The victim obtained certified copy of the judgment on 16.07.2019 and preferred an appeal before the learned First Appellate Court along with application for condonation of delay. Learned First Appellate Court rejected the application for condonation of delay and accordingly dismissed the appeal on the count that it has been filed after delay of 03 months. Aggrieved with the same, the applicant has filed the present Criminal Revision.
3. Learned counsel for the applicant would submit that the judgment of acquittal was passed on 21.06.2019 and he obtained the certified copy of the same on 16.06.2019. He would further submit that he approached to the Office of the Public Prosecutor with an intention to file an appeal against the judgment. On 02.11.2019 it was informed by the Public Prosecutor that they have not preferred any appeal. Thereafter, he contacted his own Advocate and filed an appeal which has caused delay of 03 months, therefore, the applicant has bona fide and sufficient cause in preferring the appeal after the prescribed period of limitation under Section 378(4) of Cr.P.C. The learned First Appellate Court failed to consider the well-settled position of law that where



bona-fide and sufficient cause is shown, a liberal approach should be adopted with regard to condonation of delay and a strict formula ought not to be applied. Therefore, learned First Appellate Court should have taken a liberal view while deciding the application for condonation of delay. Hence, he would pray for quashment of the impugned order.

4. Per contra, learned counsel for non-applicants No. 1 to 3 and the State would jointly submit that the dismissal of the appeal on the ground of limitation is just and proper and does not warrant any interference by this Court. It is further submitted that the applicant was required to furnish a cogent and plausible explanation for the delay which has been caused in preferring the appeal, which he has miserably failed to do so. It is contended that the applicant was well aware of the progress and fate of the complaint case, yet he deliberately slept over his rights. Thus, no bona fide or sufficient cause is available to him to justify filing the appeal with a prolonged delay. Therefore, they would pray for dismissal of the present revision.
5. I have heard learned counsel for the parties and perused the record.
6. Upon perusal of the record, it is apparent that judgment of acquittal was passed on 21.06.2019 and the applicant obtained the certified copy of the same on 16.06.2019. Thereafter the applicant has approached to the Office of the Public Prosecutor with an intention to file an appeal against the judgment and on 02.11.2019, the Public Prosecutor informed that the State has not preferred any appeal. Thereafter, the applicant contacted his own Advocate and filed an appeal which has caused delay of 03 months. In such circumstances, this Court is of the opinion that the applicant is able to demonstrate



bona fide and sufficient cause for condonation of delay. Accordingly, the delay in preferring the appeal is condoned and the impugned order dated 13.12.2019 is hereby set aside.

7. It is well settled position of law that if an appellate Court has dismissed the appeal on a technical ground (such as limitation), the proper course for the revisional Court is to remand the matter for decision on merits. Section 401(3) of Cr.P.C. bars the revisional Court from converting a finding of acquittal into conviction. The Hon'ble Supreme Court in ***C.N. Shantha Kumar vs. M.S. Sriniva [SLP (Cr.) No. 4370 of 2023]*** has held in paragraph 7 as under:

"7. The impugned decision of the High Court is therefore, found to be unsustainable. If the High Court was convinced about a wrongful acquittal, the High Court in Revision could not have ordered for conviction. It ought to have remitted the matter back to the appellate Court to re-appreciate the matter. This Course was not adopted."

8. In view of the aforesaid legal position, the matter is remanded back to the learned First Appellate Court for deciding the appeal afresh on its own merits, strictly in accordance with law.
9. Since non-applicants No. 1 to 3 have already entered appearance before this Court, issuance of fresh notice to them is dispensed with. The applicant and non-applicants are directed to appear before the learned First Appellate Court on **30th March, 2026**. As the delay in filing the appeal has been condoned, the learned First Appellate Court is directed to adjudicate the appeal on merits, without being influenced by any observations made by this Court in the present order, after affording due opportunity of hearing to the applicant as well as the non-applicants.



10. With the aforesaid observation and direction, the present Criminal
Revision is allowed in part.

Sd/-
(Narendra Kumar Vyas)
Judge

Bhumika