

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.12404/2003

(From the judgement and order dated 28/08/2002 in SA 309/97
of The HIGH COURT OF JUDICATURE AT PATNA)

STATE OF BIHAR & ANR.

Petitioner (s)

VERSUS

UPENDRA NATH PATHAK

Respondent (s)

(With Appln(s). for c/delay in filing SLP)

Date : 22/09/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s)Mr. Saket Singh, Adv.
Mr. B.B. Singh,Adv.

For Respondent (s)

UPON hearing counsel the Court made the following

O R D E R

This special leave petition has been filed along with an application for condonation of delay of 147 days in filing the special leave petition. In paragraph 3 of the said application, it was stated that the fax message in regard to filing of petition for special leave was received from the office of the Advocate General for the State of Bihar on 30th August, 2002. It appears that on account of a typographical error in the aforesaid paragraph of the application about the date of the order

being 28th February, 2002, an inquiry was directed to be made in terms of this Court's order dated 11th July, 2003. The impugned order is dated "28th August, 2002" and not "28th February, 2002". In this view of the matter, there does not appear to be any delay in sending and/or receipt of the fax message. In fact, it was wireless message and not a fax message. We accept the report filed by the learned Advocate General, Bihar pursuant to the order dated 11th July, 2003. Be that as it may, the petitioners had failed to show any cause, much less a sufficient cause, in filing Second Appeal No. 309/1997 before the High court with a delay of 198 days. The High Court committed no illegality in declining to condone the delay and consequently dismissing the second appeal. The condonation of delay in filing the S.L.P. would serve no purpose as on merits petitioners have no case. In these circumstances, the application for condonation of delay as also the petition for special leave are dismissed..

KALYANI

(V.P. TYAGI)
COURT MASTER