

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. Criminal Leave to Appeal No.43 of 2009.

State of Rajasthan through P.P.

VERSUS

Nooria @ Noor Mohd. Son of Shri Bhai Khan.

Date of Order :::: 27/02/2009.

Hon'ble Mr. Justice Bhanwaroo Khan

Ms. Rekha Madnani, Public Prosecutor for the State

By the Court :

Heard learned Public Prosecutor for the State on the application under Section 5 of the Limitation Act for condonation of delay of 667-days made in filing leave to appeal as well as leave to appeal also.

Brief facts of the case are that the respondent was acquitted of the offence under Section 3 read with Section 9 of the Official Secrets Act, 1923 vide order dated 13.06.2005 by the Sessions Judge, Jaipur City, Jaipur against which order this leave to appeal has been preferred by the State.

Heard learned Public Prosecutor for the State and perused the impugned order.

The learned Public Prosecutor for the State pleaded that because of administrative lapse, the leave to appeal could not be filed well within time and it took almost 667 days in filing the same, admitting the fact that the judgment was

delivered by the trial Court on 13.06.2005 and the certified copy of the same was obtained on 21.06.2005. From 21.06.2005 to 29.01.2007 the file awaited for legal opinion about the fact that the appeal is to be preferred or not, and still after almost seven-months, the leave to appeal was preferred, along with an application for condonation of delay.

It is for the State to explain the each and every day's delay of 667 days. The delay cannot be termed as administrative lapse on part of the State, whether the State has taken any action against the defaulting officer is also not clear. Unless, there is a specific explanation from the State, the delay cannot be condoned.

Consequently, the application under Section 5 of the Limitation Act is rejected.

As a result of rejection of the application under Section 5 of the Limitation Act, this leave to appeal also stands dismissed having barred by limitation.

ashok/

Bhanwaroo Khan, J.