

High Court of Sikkim

Record of proceedings

I.A. No. 01 of 2024 in CRL.L.P/45/2024(Filing No.)

State of Sikkim

Applicant

VERSUS

Bedu Prasad Tewari

Respondent

Date : **24-02-2025**

CORAM : **THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE**
THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

For Applicant Mr. Yadev Sharma, Additional Public Prosecutor.

For Respondent Mr. Sushant Subba, Advocate.

ORDER

Rai, J.

Heard Learned Counsel for the parties on I.A. No.01 of 2024 in CRL.L.P./45/2024(Filing No.), which is an application filed by the State-Applicant seeking condonation of 278 days' delay in filing the Appeal.

It is submitted by the Learned Additional Public Prosecutor that the delay occurred due to sheer oversight committed by him, in view of the fact that, there were two Appeals where the name of the Respondent was similar. He therefore misdirected himself in only considering the other matter and filing the Appeal while remaining oblivious to the fact that there were two Appeals to be filed against two different Respondents. Consequently, by a genuine error only the other Appeal came to be filed and that the instant Appeal was shelved in his office inadvertently. That, he craves the indulgence of this Court and apologizes for the error committed which he undertakes not to repeat. That, in view of the grounds advanced which qualifies as sufficient cause, the delay be condoned.

Learned Counsel for the Respondent while objecting to the prayer for delay submits that the State-Applicant has failed to put forth sufficient cause for the delay and merely stating that it was the inadvertence on the part of the Learned Additional Public Prosecutor is not adequate ground to condone the delay.

We have given due consideration to the submissions put forth by Learned Counsel for the parties. We have also taken into

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consideration the pronouncement of the Hon'ble Supreme Court in ***Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy and Others*** : (2013) 12 SCC 649, which held as follows; .

"**21.** From the aforesaid authorities the principles that can broadly be culled out are:

.....
21.2. (ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

.....
21.4.(iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

21.5.(v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

.....
21.7.(vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

.....
21.9.(ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

.....
21.12.(xii) The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual latitude.
....."

In view of all the parameters set forth as extracted hereinabove and having given due consideration to the grounds put forth before us, we are of the considered view that the delay has been sufficiently explained and ought to be and is accordingly condoned.

I.A. No.01 of 2024 stands disposed of.

Register the Leave Petition.

List on 24-03-2025.

Judge
24-02-2025

Judge
24-02-2025