

HIGH COURT OF SIKKIM
Record of Proceedings

I.A. No. 01 of 2024 in CRL.L.P./55/2024(Filing No.)

State of Sikkim

Applicant

VERSUS

Bikash Majhi and Another

Respondents

Date : **02-06-2025**

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

For Applicant Mr. S. K. Chettri, Additional Public Prosecutor.

For Respondents Mr. N. Rai, Senior Advocate (Legal Aid Counsel).
Mr. Pradeep Tamang, Advocate.

ORDER

Rai, J.

Heard Learned Counsel for the parties on I.A. No.01 of 2024, which is an application filed by the State-Applicant, under Section 5 of the Limitation Act, 1963, seeking condonation of twenty days' delay in filing the leave to Appeal.

Learned Additional Public Prosecutor submits that twenty days' delay in filing the Appeal arose on account of the administrative delays when the File was taken from one office to the next. That, after the File was received in the office of the Learned Additional Public Prosecutor, it was found that the impugned Judgment was underlined with pen on each of the pages. Accordingly, he had to requisition a fresh copy of the Judgment which took further time. That, fifteen days' delay took place on account of this rectification that had to be made and for preparing the Appeal. The Prosecution having made out *bona fide* grounds for the delays, fortified with sufficient cause, the delay may be condoned.

Per contra, Learned Senior Counsel for the Respondents objects to the Petition on grounds that in fact it is not twenty days' delay, but one hundred and ten days' delay as the period during which the Appeal ought

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to have been filed was not explained by the Prosecution. That, in fact, Section 378 of the Code of Criminal Procedure, 1973, mandates that while filing an Appeal only the opinion of the Public Prosecutor is to be taken. However, in the instant matter, the File has been sent from one office to the next, resulting in the delay and thereby causing prejudice to the Respondents. That, the grounds for delay not having been explained sufficiently, the Petition may be rejected.

We have given due consideration to the grounds put forth and we are of the considered view that the Prosecution has made out sufficient cause for the delay with *bona fide* reasons. We are inclined to allow the Petition, subject to payment of costs of ₹ 5,000/- (Rupees five thousand) only, to the Bar Association of Sikkim (High Court & Subordinate Courts), within a week from today, failing which the costs shall be enhanced.

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

Register the Criminal Leave Petition.

List on 30-07-2025.

Judge
02-06-2025

Judge
02-06-2025

ds/bp/sdl