

Court No. - 9

Case :- CRIMINAL APPEAL DEFECTIVE No. - 190 of 2023

Appellant :- Shiv Kumar And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. U.P. Civil
Secrett. Lko.

Counsel for Appellant :- Anita,Gauri Suwan Pandey

Counsel for Respondent :- G.A.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Ajai Kumar Srivastava-I,J.

Heard learned counsel for the appellants and learned
AGA for the State.

This appeal filed under Section 374 (2) Cr.P.C is delayed
by 430 days.

In paragraph-2 of the affidavit filed in support of the
application for condonation of delay, the only reason spelt
out reads as under:-

*"That the appellants are poor persons who could not manage the fee as
asked by the counsel in which some time is spent and when the
appellants manage the fee of the counsel is filling the present appeal."*

If the reason spelt out in the affidavit is understood to be
true, it implies that the District Legal Services Authority,
Sitapur has not been sentient to the cause of under
trials/convicted persons who have no means to approach
this Court and are financially distressed.

The Secretary District Legal Services Authority is hereby
directed to submit a report as to the manner in which the
role of Legal Services Authority was carried out and
sensitized during the relevant period. The Superintendent
District Jail, Sitapur shall also explain by filing an affidavit
as to how the present appellants have remained deprived
of the facility of legal aid provided by the State.

This report/ affidavit shall be submitted to this Court within
a period of two weeks from today.

It is also expected that under trials/convicts languishing in
jail in the like manner may also be verified and their data
be supplied to the court for necessary directions, if any.

We also expect the legal fraternity to be sensitive about
the cause of justice so that financially distressed people
are able to have easy access to the courts of law.

The Bar Council of U.P. is expected to take up the cause

of justice amongst the members of legal fraternity so that no such reason is available for any counsel to spell out the same for seeking condonation of delay.

Cause of justice is an essential and concomitant duty of the legal practitioners and Bar Associations are duty bound to evolve affordable means to the sufferers who on account of financial hardship stand deprived of access to justice.

Taking the reason spelt out in the affidavit to be true, cause shown is sufficient and the delay of 430 days in filing the present appeal is hereby condoned and the application is allowed.

Let the appeal be assigned a regular number.

Order Date :- 7.7.2023

Shahnaz

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Hon'ble Attau Rahman Masoodi, J.

Hon'ble Ajai Kumar Srivastava-I, J.

Heard learned counsel for the appellants and learned A.G.A for the State.

Admit.

Summon the lower court record.

Let the objections be filed on bail application within three weeks to which response, if any, may be filed within one week thereafter.

List in the month of August, 2023.

Order Date :- 7.7.2023/Shahnaz