

SUPREME COURT OF INDIA

State of Jharkhand

Vs.

Ashok Kumar Chokhani

C.A.No.306 of 2009

(Tarun Chatterjee and H.L.Dattu JJ.)

19.01.2009

ORDER

1. Leave granted.

2. Having heard the learned Counsel for the parties and after going through the averments made in the application for condonation of delay in filing the appeal and after considering the impugned order, which is cryptic in nature, we are of the view that delay in filing the appeal has been explained by the appellant as we find from the averments made in the application for condonation of delay that such averments do constitute sufficient cause for condoning the delay in filing the appeal.

3. It is true that an observation has been made by the High Court in the impugned order that the subject matter in the appeal also did not suffer from any infirmity but it is well settled that while deciding an application of condonation of delay in filing the appeal, the High Court could not go into the merits of the same. Even assuming that the High Court had the power to go into that question, then also, in our view, the impugned order does not disclose any reason why the subject matter in the appeal did not suffer from any infirmity.

4. That being the position, the impugned order is set aside. The delay in filing the appeal is condoned. The High Court is requested to decide LPA No. 611 of 2006 and dispose of the same after giving hearing to the parties and after passing a reasoned order in accordance with law within three months from the date of supply of a copy of this order. This appeal is thus disposed of. There will be no order as to costs.