

**IN THE COURT OF ADDL. DISTRICT & SESSION JUDGE
AIZAWL JUDICIAL DISTRICT : AIZAWL**

Crl. Misc. Appln. No. 12/2014

A/o Crl. Rev. No. 14/201

u/s 380 IPC

Jonathan Lalbiakmawia : Petitioner

Versus

State of Mizoram : Respondent

Date of Hearing : 15.04.2014

Date of Order : 16.04.2014

PRESENT

Smt. Helen Dawngliani, AD& SJ

For the Petitioner : Mr. T.J. Lalnuntluanga, Advocate

For the Respondent : Mrs. Rose Mary, Addl. PP
Ms. Rosy Lalnuntluangi, APP

ORDER

This is an application u/s 4 of the Limitation for condoning the delay of 96 days in filing a Revision Petition against the Order dt.20.9.2013 passed by the Id. Chief Judicial Magistrate, Aizawl in Crl. Tr. No.1586/2013 u/s 380 IPC wherein the Petitioner has been convicted and sentenced to undergo Simple Imprisonment for 2 years and to pay a fine of Rs. 1,000/- and in default to further undergo Simple Imprisonment for 30 days.

Heard the Id. Counsels.

Mr. T.J. Lalnuntluanga, Id. Counsel for the Petitioner appearing under the Legal Aid Scheme submitted that the father of the Petitioner is suffering from Spinal Cord problem and as such, the accused did not have anyone from his family to enquire about him and to approach the authority for redress of his grievance. The Id. Counsel submitted that since 20.9.2013 the Petitioner has been suffering detention and if he had the sufficient means to engage a Counsel he would have done so long time back. Only when the Petitioner came to know about the existence of Legal Aid Counsel, he has made an application and accordingly the instant Revision Petition has been filed. According to the Id. Counsel, a person who is undergoing detention in custody cannot be negligent of his right to take steps for redressal of his grievance towards his freedom from detention.

On the other hand, Mrs. Rose Mary, the Id. Addl. PP submitted that ignorance of law is not an excuse and that no reasonable ground has been made out to condone the delay.

Heard the Id. Counsels. It is not in dispute that the Revision Petition has been filed by the Petitioner from Jail through a Legal Aid Counsel. The Petitioner has been serving his sentence since 20.9.2013. It is humanly impossible for a person who is suffering detention in Jail to be negligent of his right if he had known the proper forum. Liberty is a cherish right of every citizen, it is very unlikely that a person who is serving sentence would be negligent towards pursuing forum for his liberty. I am also of the view that the ailment of the father of the Petitioner which is a complicated ailment also furnishes a reasonable ground for delay.

For the reasons indicated above, I find that sufficient ground has been made out to condone the delay of 96 days in filing the Revision Petition.

Accordingly, the delay of 96 days is condoned.

Application stands disposed off.

Sd/- HELEN DAWNGLIANI
Addl. Dist & Sessions Judge,
Aizawl Judicial District, Aizawl.

Memo No. AD & SJ/2014 : Dated Aizawl, the 16th April, 2014
Copy to :

1. Jonathan Lalbiakmawia through Counsel Mr. T.J. Lalnuntluanga, Advocate.
2. Rose Mary, Addl. PP.
3. Registration Section.
4. Guard File.
5. Case Record.

P E S H K A R