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STATE OF RAJASTHAN  
v.  
CHANDA @ CHANDKORI AND ORS

SEPTEMBER 24, 2007

B

**[A.K. MATHUR AND MARKANDEY KATJU, JJ.]**

*Code of Criminal Procedure, 1973:*

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*Application for leave to appeal against acquittal—Rejected by High Court by a cryptic order—Held: While disposing of an application for leave to appeal against an acquittal, it is expected that High Court should pass a speaking order showing due application of mind—Since that has not been done in the instant case, order of High Court is set aside and the matter remitted back to it for passing an order after showing due application of mind.*

D

**Delay—Condonation of—260 days delay in filing Special Leave Petition by Government—Held: Ordinarily Court would not condone such a long delay—Such kind of delay causes grave injustice to the parties—However, in the peculiar facts and circumstances of the case, delay condoned—Constitution of India—Article 136.**

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1293 of 2007.

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From the Judgment and Order dated 14.07.2005 of the High Court of Judicature for Rajasthan at Jaipur Bench in D.B. Criminal Leave to Appeal No. 165 of 2005.

Manish Kumar and Ansar Ahmad Chaudhary for the Appellant.

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B.S. Jain, Ajay Veer Singh, Mamta Jain, Neha Tiwari and Dr. Vipin Gupta for the Respondents.

The following Order of the Court was delivered:

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We have heard learned counsels for the parties.

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Delay condoned.

Leave granted.

This appeal is barred by time by 260 days. Ordinarily we may not have condoned such a long delay, and we do not appreciate the delays caused in filing Special Leave Petitions by the Government before this Court. Such kind of delay causes grave injustice to the parties. However, in the peculiar facts and circumstances of the case, we condone the delay. This appeal is directed against the judgment and order dated 14th July 2005 passed by the High Court of Judicature for Rajasthan at Jaipur Bench, Jaipur in D.B. Criminal Leave to appeal No. 165 of 2005 whereby the Division Bench of the High Court had passed a cryptic order dismissing the application for leave to appeal against an acquittal judgment without giving proper reasons and without showing due application of mind. While disposing of an application for leave to appeal against an acquittal, it is expected that the High Court should pass a speaking order showing due application of mind. Of Course the said order need not be as elaborate as a full fledged judgment, but at least briefly some reasons should be given. That has not been done in this case. Hence we cannot sustain the impugned order dated 14th July 2005 passed by the High Court. We set aside the order of the High Court and remit the matter back to the High Court for passing an order after showing due application of mind.

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The appeal is accordingly, allowed.

R.P.

Appeal allowed.

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