

**IN THE HIGH COURT OF SIKKIM
CRIMINAL APPELLATE JURISDICTION**

CrI. A. No. 19 OF 2015

Shri. Kumar Ghimirey,
S/o Shri. Nim Das Ghimirey,
R/o Lower Namphing,
South Sikkim.
Presently Central Prison at
Rongyek, East Sikkim. ----- Appellant.

-VERSUS-

State of Sikkim. ----- Respondent.

PETITIONER
ADVOCATE (S)
FOR ----- Mr. B. K. Gupta, Legal Aid Counsel.

RESPONDENT
ADVOCATE (S)
FOR ----- J. B. Pradhan, Public Prosecutor, Mr. Karma
Thinlay, Addl. Public Prosecutor, Mr. S. K. Chettri,
Asstt. Public Prosecutor and Ms. Pollin Rai, Asstt.
Public Prosecutor.

Case No.....

Serial No.	Date	Order (s) with Signature (s)
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04.	01.12.15	Crl. A. No. 19/2015 Kumar Ghimirey vs. State of Sikkim BEFORE HON'BLE THE CHIEF JUSTICE MR. JUSTICE S.K. SINHA Present: Mr. B.K. Gupta, Advocate (Legal Aid Counsel) for the Appellant. Mr. Karma Thinlay, Addl. Public Prosecutor with Mr. Santosh Kr. Chettri and Ms. Pollin Rai, Asstt. Public Prosecutors for the State. ... <u>IA No. 01/2015</u> Heard. This is an Application for condonation of delay in filing the Appeal. According to Mr. Gupta, the Appeal is barred by 274 days of limitation. Mr. Gupta, learned Legal Aid Counsel appearing on behalf of the Appellant, submits that the Appellant is a poor person, therefore, he could not engage any counsel in the trial Court and the trial was conducted through a Legal Aid Counsel in which the Judgment was delivered on 31.10.2014. After delivery of the Judgment, the Appellant could not engage any private counsel to file his Appeal, therefore, the matter was again taken-up by the Sikkim State Legal Services Authority (SSLSA) and was entrusted to him by appointing him as a Legal Aid Counsel to file this Appeal. After receiving the records, he made preparations for filing of the Appeal, therefore, it took some more time and the Appeal could not be filed earlier to 30.09.2015. He prays for condonation of delay in filing the Appeal.

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		On the other hand, Mr. Karma Thinlay, learned Addl. Public Prosecutor appearing on behalf of the State opposes the above arguments. However, he also does not deny that it was a legal aid matter before the trial Court and the instant Appeal has also been filed through the SSLSA. Considering the above facts and circumstances of the case and further considering that the Appellant is suffering SI for seven years, I am of the view that present is a fit case in which the delay in filing the Appeal should be condoned. Accordingly, IA No. 01 of 2015 is allowed and delay in filing the Appeal is condoned. IA No. 01 of 2015 stands disposed of. <u>Crl. A. No. 19/2015</u> Heard on admission. Admit. Issue notice. Ms. Pollin Rai accepts notice on behalf of State. In view of Winter Vacation, list for further orders on 19.02.2016. In the meanwhile, call for the records of the Special Court.  Chief Justice 01.12.2015

pm/jk Index : Yes / No
Internet : Yes / No