

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN
GILGIT.**

Under objection No. 10/2013.

Before:-

- 1. Mr. Justice Rana Muhammad Arshad Khan, Chief Judge.**
- 2. Mr. Justice Muzaffar Ali. Judge.**

The State.

Petitioner/Appellant.

Versus

1. Sharafat Hussain King S/o Asghar Shah R/o Amphary Gilgit.
2. Rahmat Ullah s/o Muhammad Musa R/o Majini Muhallah, Gilgit.
3. Haider Abbass S/o Afzal R/o old Pologround, Gilgit.
4. Akhtar Abbass s/o Mayoon R/o Hospital Road, Gilgit.
5. Nasir Ali s/o Jafar Ali R/o Sajjadia Mohallah, Gilgit.
6. Hamid Hussain s/o Malik Ashdar R/o Majini Mohallah, Gilgit.
7. Ashiq s/o Muhammad Wali r/o Sami Mohallah, Gilgit.

Respondents/Accused.

**CHARGE UNDER SECTION 148/149/436/452
PPC WITH SECTION 21-L AND SECTION 6/7 OF
THE ANTI TERRORISM ACT, 1997 VIDE FIR NO.
24/2005 DATED 08.01.2005, REGISTERED
WITH POLICE STATION CITY GILGIT.**

**PETITION FOR LEAVE TO APPEAL UNDER
SECTION 60 OF GILGIT-BALTISTAN
(EMPOWERMENT & SELF GOVERNANCE) ORDER
2009, AGAINST THE ORDER/DECISION DATED
04.12.2012 PASSED BY DIVISION BENCH OF
CHIEF COURT GILGIT-BALTISTAN IN CR.
APPEAL NO. 45 OF 2012, WHEREBY THE
LEARNED DIVISION BENCH OF THE CHIEF
COURT HAS DISMISSED THE APPEAL OF THE
PETITIONER/APPELLANT IN LIMINE.**

Present:-

The Advocate General Gilgit-Baltistan.

DATE OF HEARING: - 28.08.2014

Order

Rana Muhammad Arshad Khan, CJ: This petition has been directed against the Judgment/Order dated 04.12.2012 passed by the learned Division Bench of the Chief Court, Gilgit-Baltistan in Cr. Appeal No. 45/2012, whereby, the appeal of the petitioner herein was dismissed.

2. The brief facts of the case are that the case FIR No. 24/2005 dated 08.01.2005 was registered with Police Station City, District Gilgit under Section 452,148,149 and 436 PPC read with Section 6/7 of the Anti-Terrorism Act, 1997. On the conclusion of the investigation by the concerned police officer, the report under Section 173 Cr.PC was prepared, while placing the names of Hamid Hussain, Haidar Abbas and Ishfaq in Column No. 2 and the names of Akhtar Abbas, Rehmat Ullah, Sharafat Hussain and Nasir Ali in Column No. 3 of the aforesaid report, which was submitted in the court of competent jurisdiction for its trial.

3. The learned trial court on the conclusion of the trial, acquitted all the accused persons of the charges leveled against them vide Judgment dated 25.10.2012. The prosecution, feeling aggrieved, called in question the said judgment before the Chief Court Gilgit-Baltistan. The learned Division Bench of the Chief Court Gilgit-Baltistan vide Judgment/Order dated 04.12.2012 dismissed the appeal. Hence this petition for leave to appeal.

4. The learned Advocate General Gilgit-Baltistan has been heard at a considerable length.

5. Mr. Ali Nazar AOR, had presented this petition on 22.01.2013. It is pertinent to mention over here that the instant petition was time bared by about Seventeen days. An application for condonation of delay was also filed. The office on receipt of the Cr. Petition for Leave to Appeal raised the following objections: -

- i. The instant petition is not signed by Advocate General.
- ii. The concise statement signed by AoR is found duplicate as well as page No. 3 of the petition is also duplicate, the same are required to be replaced.
- iii. The pages No. 19, 20, 38, 39, 40, 41 and 42 are required to be replaced by better copies.”

6. The AOR resubmitted the petition in hand after removing the Objection No. 3 only and had not removed the objection No. 1 & 2 of the Objection Memo dated 30.03.2013. The resubmission of the petition after removal of all the objections raised by the office was required to be resubmitted within a period not exceeding Six Weeks as contemplated in Order V, Rule 1(7) of the Supreme Appellate Court Rules, 2008 but the AOR resubmitted the petition with the lapse of about Two Months and Twenty Six days. Order V, Rule 1(7) reads as follows.

“Order V.

Business In Chambers

1. The powers of the Court in relation to the following matters may be exercised by the Registrar: -

(1), (2), (3), (4), (5), (6),

(7) Application for time to plead, for production of documents and generally relating to conduct of cause, appeal or matter and to allow from time to time any period or periods not exceeding six weeks, in the aggregate, for doing any other act necessary to make a cause, petition or appeal complete.

(8)..... (9).....”

7. The plain reading of Order V, Rule 1(7) makes it abundantly clear that the petition was to be resubmitted within stipulated period, as it has been enshrined in Order V, Rule 1(7) i.e. before expiry of Six Weeks.

8. It is observed that the Advocates on Record do not adhere to the legal provisions applicable to the petitions filed in this court. The office has correctly placed the matter before the bench of this Court as “Under Objection Case No. 10/2013”. The resubmission of the petition is awfully time bared, whereas, the petition itself was filed with the delay of about Seventeen days. This is a petition against the acquittal of the respondents by both the courts below. A valuable right has already been accrued to them, which, at this juncture, cannot be taken away because of the lapse on the part of state, which is fully resourceful to deal their matters in accordance with law. The application for condonation of delay

has also been perused carefully but no plausible ground has been given for condonation of delay, particularly, when the petition in hand was filed, while assailing the Judgments of both the Courts below, against the acquittal of the respondents.

9. In view of what has been discussed above, the petition alongwith the application for condonation of delay is dismissed. The objections raised by the office are upheld.

Chief Judge.

Judge.