

GAHC040017532023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : IA(Crl)/70/2023

Panye Tayo

S/o Panye Kato, residence of Aniya Colony, P/O and P/S Nirjuli, District papum Pare,
Arunachal Pradesh. Mobile No. 8798543232

VERSUS

The State of AP and 2 Others

represented by Public Prosecutor, Gauhati High Court, Itanagar Permanent Bench,
Yupia/ 2:Baragi Brah

Age: 0

Occupation :

S/O late Tagam Brah

Residence of the villlage Rebang

P/O Pijrang

P/S Pakke Kessang

District Pakke Kessang

Arunachal Pradesh.

3:Miss Rungfe Brah

Age: 0

Occupation :

D/O Late Tagam Brah

Presently residing at Naharlgun

P/O and P/S Naharlagun

District Papum Pare

Arunachal Pradesh

Advocate for the Petitioner : Tambo Tamin

Advocate for the Respondent : P P of AP

**BEFORE
HONBLE MR. JUSTICE ROBIN PHUKAN
HONBLE MR. JUSTICE KARDAK ETE
ORDER**

21.12.2023

[Robin Phukan, J.]

Heard Mr. T. Topu, learned counsel for the applicant and Mr. J. Tsering, learned Public Prosecutor for the State respondent.

2. In this application, under Section 5 of the Limitation Act, the applicant has prayed for condonation of delay of 35 days in filing the connected appeal, against the judgment and order dated 14.09.2023, passed by the learned Sessions Judge, Bomdila in Bomdila Sessions Case [POCSO] C/No.10/2021, corresponding to Seppa Women Police Station Case No. 10/2019, under Sections 376/363 of the IPC read with Section 6 of the POCSO Act.

3. It is to be noted here that vide judgment and order dated 14.09.2023, the learned court below has convicted the applicant under Sections 376/363 of the IPC read with Section 6 of the POCSO Act and sentenced him to suffer rigorous imprisonment for 5 years and to pay a fine of Rs. 10,000/- under Section 366 of the IPC and further sentenced him to suffer rigorous imprisonment for 20 years and to pay a fine of Rs. 25,000/- under Section 6 of the POCSO Act.

4. Mr. Topu, learned counsel for the applicant submits that though the judgment was pronounced by the learned court below on 14.09.2023, the sentenced was pronounced on 18.09.2023, and thereafter, the applicant had applied for certified copy and obtained the certified copy on 28.11.2023, and therefore, the appeal could not be preferred in time. Mr. Topu further submits that the said delay is not intentional but circumstantial and therefore, it is contended to condone the same.

5. On the other hand, Mr. Tsering, learned Public Prosecutor submits that he has no objection in the event of condoning the delay of 35 days and filing the connected criminal appeal.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record.

7. Considering the submissions of learned counsel for both the parties and also considering the explanation forthcoming for delay of 35 days, this Court is of the view that the same has been sufficiently explained and therefore, this Court is inclined to condone the delay of 35 days in preferring the connected criminal appeal.

8. In terms of above, this IA stands disposed of.

9. In view of above, it is provided that the Registry shall register the appeal and list the same before this Court.

JUDGE

JUDGE

Comparing Assistant