

GAHC010224322018



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

Case No. : I.A.(CrI.)/788/2018

CENTRAL BUREAU OF INVESTIGATION,
THROUGH ITS HEAD OF BRANCH, CBI/ANTI CORRUPTION BRANCH,
OAKLAND, SHILLONG 793001, MEGHALAYA.

VERSUS

MR. R.U. BARLASKAR AND 3 ORS
S/O (L) ASAB UDDIN BARLASKAR, THE THEN AEE AND I/C, JIRIBAM
INVESTIGATION DIVISION, BRAHMAPUTRA BOARD (SINCE RETIRED),
PERMANENT ADD. VILL. SATURAKANDI, P.O. DHANARI VIA SONAIMUKH,
SILCHAR, DIST. CACHAR, ASSAM 788001

2:MR. JAYANTA THAKURIA
S/O (L) BALRAM THAKURIA
THE THEN JE
JIRIBAM SUB-DIVISION
BRAHMAPUTRA BOARD
PRESENT ADD. MECHANICAL SUB-DIVISION
CWC
GUWAHATI
PERMANENT ADD. VILL. GOPINATH NAGAR
P.O. PALTAN BAZAR
DIST. KAMRUP
GUWAHATI 16

3:MR. ANUPAM NATH
S/O SHRI ANIL NATH
THE THEN JE. JIRIBAM SUB-DIVISION
BRAHMAPUTRA BOARD (SINCE RETIRED)
PRESENT ADD. NEID-I
CWC
SILCHAR

PERMANENT ADDRESS
P.O.AND VILL. PANIBORA
DIST. CACHAR
ASSAM 788001

4:MR. K.M. BRAHMA
THE THEN JE
JIRIBAM SUB DIVISION
BRAHMAPUTRA BOARD
PRESENT ADD. H/NO 74
LACHIA PATH
PATARKUCHI
BASISTHA
GUWAHATI-29
PREMANENT ADDRESS VILL. CHAKMA
P.O. AND P.S. GOSHAIGOAN
DIST. KOKRAJHAR
ASSAM 78800

Advocate for the Petitioner : MR. S C KEYAL

Advocate for the Respondent : MR N ISLAM

Linked Case :

CENTRAL BUREAU OF INVESTIGATION

VERSUS

MR R.U. BARLASKAR and 3 ORS

2:THE BLOCK DEVELOPMENT OFFICER

CHAMARIA DEV. BLOCK
P.O. NAGARBERA
DIST KAMRUP R
ASSAM
PIN-781127

3:THE DY. COMMISSIONER

KAMRUP
P.O. AMINGAON
DIST KAMRUP
ASSAM

PIN-781031
4:THE SECY

46 NO. RANGAPANI GAON PANCHAYAT
P.O.BADLABAZAR
P.S.BOKO
DIST KAMRUP
ASSAM
PIN-781127
5:MOIDUL ISLAM

S/O MD.AKTAR ALI
VILL. NO. 2
SOUTH RANGAPANI
P.O. BADLA BAZAR
P.S. BOKO
DIST KAMRUP R
ASSAM
PIN-781127
6:SHOWKAT ALI

S/O MD.ABDUL KUDDUS
VILL. NO.1
SOUTH RANGAPANI
P.O. BADLA BAZAR
P.S.BOKO
DIST KAMRUP R
ASSAM
PIN-781127
7:ABDUL AWAL

S/O LT MAKBUL HUSSAIN
VILL NO. 3
SOUTH RANGAPANI
P.O. BADLA BAZAR
P.S.BOKO
DIST KAMRUP R
ASSAM
PIN-781127
8:AKKAR ALI

S/O LT. GULAM MUSTAFA
VILL. NO.1 SOUTH RANGAPANI
P.O.BADLA BAZAR
P.S.BOKO
DIST KAMRUP R
ASSAM
PIN-781127

9:ASIYA KHATUN

W/O MD. ABDUL MALIK
VILL NO. 1 SOUTH RANGAPANI
P.O.BADLA BAZAR
P.S.BOKO
DIST KAMRUP R
ASSAM
PIN-781127
10:JAMELA KHATUN

W/O MD.ABDUL MAZID
VILL NO.2 SOUTH RANGAPANI
P.O. BADLA BAZAR
P.S.BOKO
DIST KAMRUP R
ASSAM
PIN-781127 SL. NO. 5 TO C/O . SECY. OF 46 NO. RANGAPANI GAON
PANCHAYAT
P.O. BADLA BAZAR
P.S.BOKO
DIST KAMRUP
ASSAM
PIN-781127
11:HASSAN BILLAL AHMED

S/O MD.USMAN GANI
VILL NO. 2 SOUTHRANGAPANI
P.O.BADLA BAZAR
P.S.BOKO
DIST KAMRUP R
ASSAM
PIN-781127
12:ADAM ALI

S/O LT. NASER ALI
VILL NO. 2
SOUTH RANGAPANI
P.O. BADLA BAZAR
P.S. BOKO
DIST KAMRUP R
ASSAM
PIN-781127

Advocate for :
Advocate for : appearing for MR R.U. BARLASKAR and 3 ORS

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 17.02.2023.

Heard Mr. M. Haloi, learned Special Public Prosecutor, CBI. Also heard Mr. N. Islam, learned counsel for the respondents.

This is an application under Section 5 of the Limitation Act, 1963 for condonation of delay of 240 days in filing the regular appeal.

It has been submitted by the learned Special Public Prosecutor, CBI that the learned Spl. Judge, Additional Court No. 2, CBI, Chandmari, Guwahati passed the impugned judgment dated 31.12.2016 and thereafter, it took some time to obtain the certified copy for preferring the appeal for which the delay of 240 days was occurred. It is further submitted that the delay in filing the appeal is not intentional. The delay is also explained categorically in this petition as to how there was delay of 240 days in preferring the appeal.

In support of his case, he has placed reliance a case law reported in 2022 LiveLaw (SC) 357 State of Rajasthan vs Banwari Lal and Anr. In this case, there is huge delay of 1880 days in preferring the appeal against the impugned judgment and order.

The Hon'ble Supreme Court held that- *"Applying the law laid down by this Court on principles for sentencing, to the facts of the case of hand, we are of the opinion that the approach of the High Court is most cavalier. Therefore, the order of the High Court merits interference by this Court. Merely on the technical ground of delay and merely on the ground that after the impugned judgment and order, which is*

unsustainable, the accused have resettled in their lives and their conduct has since been satisfactory and they have not indulged in any criminal activity, is no ground not to condone the delay and not to consider the appeal on merits. Hence, the delay of 1880 days in preferring the appeal is condoned.”

In this context, the learned counsel for the respondents has submitted that they have filed their affidavit-in-opposition and it is stated that all the respondents were acquitted by the trial court after full trial. Moreover, the delay was occurred due to negligence or time to obtain such approval from the department. It is further stated due to such negligence, the respondents cannot be put to harassment and some of the respondents have already been retired. There is no sufficient grounds shown by the applicant for which he has raised strong objection if the delay of 240 days is condoned.

After hearing the learned counsel for the parties and also considering the aforesaid facts, this Court is of the opinion that the grounds which have been shown by the applicant for delay in preferring the regular appeal is satisfactory. Day to day delay is well explained in this petition. Accordingly, the delay of 240 days is hereby stands condoned.

The Registry is directed to register the connected appeal and list it accordingly.

With the above observation, the I/A stands disposed of accordingly.

JUDGE

Comparing Assistant