



Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CrI.M.C. No. 73 of 2024

Date of Order: 13.08.2024

Shri. Aloï Suïam
S/o (L) Shri. Lowis Sayoo
R/o Mookyndeng Village,
West Jaintia Hills District,
Meghalaya.

::::: **Applicant**

-Vs-

State of Meghalaya,
Through the Commissioner & Secretary
To the Government of Meghalaya,
Department of Home (Police),
Civil Secretariat, Shillong, Meghalaya

::::: **Respondent**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Applicant(s) : Mr. K.S. Kynjing, Sr. Adv. with
Mr. G. Syngkrem, Adv.
Ms. B. Rapsang, Adv.

For the Respondent(s) : Mr. N.D. Chullai, AAG. with
Mr. E.R. Chyne, GA.

i) Whether approved for reporting in Law journals etc.: Yes/No



ii) Whether approved for publication
in press:

Yes/No

ORAL:

1. Heard Mr. K.S. Kynjing, learned senior counsel for the applicant as well as Mr. N.D. Chullai, learned AAG for the State respondent.

2. This is an application for condonation of delay of 39 days in preferring the connected criminal appeal. Initially, when the matter came up for consideration, the State has raised an objection as to the maintainability of the appeal itself, wherein, it was pointed out that the appeal was filed under the provision of the new Code i.e. the BNSS, 2023, when in fact, the appeal pertains to an issue of conviction which arose before 1st July, 2024. Under such circumstances, it was the contention of the State respondent that the appeal ought to have been preferred under the old Code i.e. the Cr.P.C, 1973. This was with reference to the provision of Section 531 (2)(a) of the BNSS which is a saving clause, and which provision reads as follows:

“531. Repeal and savings.— (2) Notwithstanding such repeal –
(a) if, immediately before the date on which this Sanhita comes into force, there is any appeal, application, trial, inquiry or investigation pending, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or



made, as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), as in force immediately before such commencement (hereinafter referred to as the old Code), as if this Sanhita had not come into force;”

3. Accordingly, in due course, the applicant has amended the memo of appeal, and has now preferred the appeal under the provision of the old Code i.e. the Cr.P.C. This being the case, the dispute in this regard does not survive for consideration by this Court in this matter.

4. Upon hearing the parties, on the objection of the State respondent, being attended to, this Court is also of the opinion that the appeal will be allowed to be filed under the provision of the old Code, subject to relevant orders passed in this instant application.

5. Mr. N.D. Chullai, learned AAG has no objection to the condonation of delay as prayed for by the learned senior counsel for the applicant.

6. Accordingly, the total delay of 39 days is hereby condoned.

7. Misc. Case stands disposed of.

8. Registry is directed to diarize the appeal and list it for admission after 1(one) week before the appropriate bench.

9. As regard the issue of whether the provision of the old Code i.e.



the Cr.P.C, 1973 or the new Code i.e. the BNSS, 2023 would apply in cases of appeal or bail applications or the like being filed before this Court on or after 1st July, 2024, the issue of law will remain to be decided.

(B. Bhattacharjee)
Judge

(W. Diengdoh)
Judge