

GAHC010003712024



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

Case No. : I.A.(Crl.)/59/2024

AC/2007 SRI R. SARVANAN
S/O LATE RAMA SWAMY THEVAR,
VILL.- ACHILAPURAM, DIST.- BIRUDHUNAGAR, TAMIL NADU.

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY THE PUBLIC PROSECUTOR.

2:PREM SINGH SAURAWAT
COMMANDANT
125 BN
CRPF
BASUGAON
P.S.- BASUGAON
DIST.- CHIRANG
KAJALGAON

Advocate for the Petitioner : MS. B SARMA (LEGAL AID COUNSEL)

Advocate for the Respondent : PP, ASSAM

Linked Case :

AC/2007 SRI R SARVANAN

VERSUS

THE STATE OF ASSAM AND ANR H

Advocate for : MS. B SARMA
Advocate for : appearing for THE STATE OF ASSAM AND ANR H

Linked Case :

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VERSUS

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Advocate for : MS. B SARMA
Advocate for : appearing for THE STATE OF ASSAM AND ANR H

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE MARLI VANKUNG

ORDER

Date : 20.03.2024
(K.R. Surana, J)

Heard Ms. B. Sarma, learned legal aid counsel for the appellant. Also heard Ms. S.H. Bora, learned APP appearing for the State.

2. Mr. P.K. Medhi, learned CGC is appearing for the respondent no.2, who was requested by order dated 16.02.2024 to obtain instruction for appearing on

behalf of the informant (respondent no.2), who was the Commandant of 152 Bn. CRPF, Basugaon.

3. Upon instruction, the learned CGC has submitted that he has instruction to inform the Court that the respondent no.2 has superannuated.

4. It is noted from the judgment impugned in the connected appeal that the appellant was convicted under Section 302 IPC and was sentenced to undergo rigorous imprisonment for life and to pay fine with default stipulations.

5. Having heard the learned counsel appearing for all sides, the Court is of the considered opinion that it is not necessary for the Court to issue notice on the respondent no.2 as the appellant has been convicted under Section 302 IPC.

6. Accordingly, the issuance of notice on the respondent no.2 is dispensed with.

7. As the respondent no.2 is not found to be a necessary party for adjudication of the connected appeal as well as this interlocutory application, let the name of respondent no.2 be struck off. Further, the appearance of the CGC is also exempted.

8. Registry shall not reflect the name of CGC in the cause list while listing the matter next.

9. By filing this application under Section 5 of the Limitation Act, the applicant has prayed for condoning the delay of 2283 days beyond the period of limitation in filing the connected appeal.

10. In view of the inordinate delay in filing the appeal, on the query of the Court, the learned legal aid counsel has submitted that the appellant was taken into custody in the year 2011 and since then, he is languishing in jail and was

not informed about his right to file an appeal through legal aid counsel. It is only when the wife of the applicant wrote a letter to Honourable the Chief Justice of this Court on 26.10.2023, it has come to light that the applicant had not been able to engage any counsel to prefer an appeal against the order impugned in the connected appeal. It is submitted that in view of the said facts, this Court has approved the request made by the wife of the applicant and the matter was referred to the Gauhati High Court Legal Aid Services Committee and only thereafter, by letter dated 29.11.2023, the learned legal aid counsel was appointed and then this application and the connected appeal was filed on 03.01.2024.

11. The learned APP has objected to the prayer made in this application on the ground that the delay is very long.

12. It is noted from paragraph 3 of the judgment impugned in the connected appeal that though the crime was committed in the year 2001, but after being granted bail, the applicant was absconding and was only arrested in the year 2011. Therefore, by now the applicant has spent about 13 (thirteen) years in jail.

13. Considering the explanation tendered by the applicant, the Court is inclined to accept the cause as good and sufficient reason for the applicant for not being able to file the connected appeal on time.

14. Accordingly, the delay of 2283 days beyond the period of limitation in filing the connected appeal stands condoned.

15. This application stands allowed.

16. The learned legal aid counsel for the applicant shall provide a copy of

the memo of appeal to the learned APP within a week from today.

17. Registry shall now register the connected appeal and list the same in the admission column.

JUDGE

JUDGE

Comparing Assistant