

GAHC010014012024



2024:GAU-AS:12192

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

Case No. : I.A.(CrI.)/103/2024

DHIREN DAS
S/O LATE DAROGA DAS,
RESIDENT OF KAYAJENI, PS HAJO, DIST KAMRUP ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY PP ASSAM

2:DRAUPADI DAS
W/O KARUNA DAS
RESIDENT OF KAYAJENI
PS HAJO
DIST KAMRUP ASSA

Advocate for the Petitioner : MR. B K DAS, MS. P DAS

Advocate for the Respondent : PP, ASSAM, A SAUD (r-2),MR T PAUL (r-2)

Linked Case :

DHIREN DAS

VERSUS

THE STATE OF ASSAM AND ANR B

Advocate for : MR. B K DAS

Advocate for : appearing for THE STATE OF ASSAM AND ANR B

Linked Case :

DHIREN DAS

VERSUS

THE STATE OF ASSAM AND ANR B

Advocate for : MR. B K DAS

Advocate for : appearing for THE STATE OF ASSAM AND ANR B

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

03.12.2024

Heard Ms. P. Das, learned counsel for the applicant. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent No.1.

However, it is seen that although the names of two counsels for the respondent No.2 are reflected in the cause list, none appeared when the matter was called.

This interlocutory application is filed under Section 5 of the Limitation Act, 1963, praying for the condonation of a delay of 281 days in filing an appeal against the Judgment and Order dated 13.02.2023, passed by the learned Sessions Judge, Kamrup, Amingaon, in Sessions Case No. 40/2014, whereby,

the applicant was convicted under Section 376(1) of the IPC and sentenced him to undergo rigorous imprisonment for 10 (ten) years and a fine of Rs. 10,000/- (Rupees ten thousand) only. In default of paying the fine, the applicant is to undergo simple imprisonment for a further period of 3 (three) months.

It is submitted by the learned counsel for the applicant, Ms. Das, that the delay in preferring the appeal is due to improper guidance from the engaged advocate, who dealt with the case as defence counsel in the trial court, and who failed to provide proper guidance. Additionally, the delay is due to the failure of the applicant's wife, who is an illiterate lady suffering from multiple ailments for the past year, as well as the lack of knowledge of the applicant, who was taken into custody immediately after the judgment. As a result, there has been an inordinate delay in filing the instant appeal. She further submitted that there was no intentional delay or negligence on the part of the applicant in preferring the appeal within the stipulated period of limitation.

In this context, Mr. Baruah, learned Additional Public Prosecutor raised no objection in condoning the delay of 281 days in preferring the connected appeal.

In view of above and also for the ends of justice, the Interlocutory Application for condonation of delay is hereby allowed and the delay of 281 days in preferring the connected appeal stands condoned.

Registry to register the connected appeal and to list the same for admission hearing in its usual course.

In terms of above, this Interlocutory Application stands disposed of in terms above.

JUDGE

Comparing Assistant