

GAHC010021672024



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

Case No. : I.A.(Crl.)/173/2024

RATUL HUSSAIN
S/O LATE FAZIR UDDIN AHMED
VILL- NAHARANI MAJGAON
P.S. DERGAON
DIST. GOLAGHAT, ASSAM
PIN-785618

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:FARIDUR RAHMAN
S/O MD. AMIN ALI
VILL- NAHARANI MAJGAON
P.S. DERGAON
DIST. GOLAGHAT
ASSAM
PIN-78561

Advocate for the Petitioner : MR. A M AHMED

Advocate for the Respondent : PP, ASSAM

Linked Case :

RATUL HUSSAIN

VERSUS

THE STATE OF ASSAM AND ANR (E)

Advocate for : MR. A M AHMED

Advocate for : appearing for THE STATE OF ASSAM AND ANR (E)

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

20.05.2024

Heard Mr. I. A. Hazarika, learned counsel for the applicant. Also heard Ms. S. Jahan, learned Additional Public Prosecutor for the State respondent.

This application filed under Section 5 of the Limitation Act, 1963, praying for condoning the delay of 2161 days in filing the criminal revision challenging the impugned Judgment and Order dated 06.03.2014 passed by the learned Session Judge, Golaghat in Criminal Appeal No.03/2011 affirming the judgment of conviction and sentence dated 14.12.2010 passed by the learned Additional Chief Judicial Magistrate, Golaghat in G. R. Case No.875/2007, whereby, convicting the applicant under Section 326/34 of IPC and sentencing him to suffer Rigorous Imprisonment for 2(two) years and pay a fine of Rs.10,000/- (Rupees ten thousand) only, under Section 326/34 of IPC and in default R.I. for another 6(six) months.

It is submitted by the learned counsel for the applicant, Mr. Hazarika that the accused/applicant was not at all aware about the order passed by the learned Trial Court and he came to know about the same only when the said Trial Court issued NBWA issued against him which he later came to know from his co-villagers. Thereafter, he made an inquiry in the house of the engaged counsel and then, he came to know that his engaged counsel has already expired on 02.02.2019 due to some illness, but, he was not aware about the death of his engaged counsel as well as the order passed by the learned Trial Court. Accordingly, there was a delay of 2161 days in filing the connected criminal revision petition.

In this regard, Ms. Jahan, learned Additional Public Prosecutor has submitted that the applicant had also knowledge of pendency as well as disposal of the case. And thus, due to intentional negligence of the applicant, they did not appear before the learned Trial Court. However, she submitted that considering the other aspect of the case, delay may be

condoned.

Considering the submissions of learned counsel for the applicant and also considering the grounds mentioned in the petition as well as for the ends of justice, this Interlocutory Application stands allowed and the delay of 2161 (Two thousand one hundred sixty one) days in preferring the connected appeal is hereby stands condoned.

Registry to register the connected revision petition and list the same for Admission hearing in its usual course.

The Interlocutory Application stands disposed of in terms above.

JUDGE

Comparing Assistant