

GAHC010060952022



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

Case No. : CrI.L.P./23/2022

RAGHU NATH BARUAH
S/O LATE KRISHNA RAM BARUAH
RESIDENT OF VILLAGE BHATTAPARA, CHHAYGAON, PO CHAMPAK
NAGAR, PS CHHAYGAON, DIST KAMRUP ASSAM 781124

VERSUS

MANORANJAN BHAGAWATI
S/O SRI NARODEV SARMAH
RESIDENT OF VILLAGE PACHAMTOLA,
PO CHAMPAK NAGAR, PS CHHAYGAON, DIST KAMRUP ASSAM 781124

Advocate for the Petitioner : MR P KATAKI

Advocate for the Respondent : MR S MUKTAR

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 31-05-2024

Heard Mr. D. Chakarborty, learned counsel for the appellant as well as Mr. S. Muktar, learned counsel for the respondent.

2. This is an application filed under section 378(4) of Cr.P.C. praying for

special leave to prefer the appeal against the order of acquittal against the judgment and order dated 11.01.2022 passed in CR case no.316/2014 under section 138 of the NI Act.

3. It is submitted by the learned counsel for the appellant that the appellant had filed the case under section 138 of the NIA Act where the documents were exhibited but inadvertently the postal receipt dated 24.03.2014 was exhibited as Ext.4 instead of the correct postal receipt dated 11.03.2014. Coming to know about the said inadvertent mistake a petition was also filed before the learned Court below but the same was rejected and judgment was passed whereby the present respondent was acquitted.

4. Hence, he had preferred the connected appeal against the order of acquittal and accordingly the present leave petition has been preferred to grant leave of the Court to register the appeal against the judgment and order passed by the learned trial Court.

5. Mr. S. Muktar, learned counsel for the respondent submits that 30 opportunities were given to the petitioner's side but he did not avail those opportunities and thus violated the provision of section 138B of the NIA Act and on the basis of which the judgment was passed by the learned Court below. Thus he raised objection in allowing the present leave petition to prefer the appeal against the order of acquittal.

6. Hearing the submission made by the learned counsel for both sides, I find it justified to allow the present petition to prefer an appeal against the

order of acquittal.

7. Accordingly leave is granted and the Registry is directed to register and number the connected appeal.

8. List accordingly.

JUDGE

Comparing Assistant