

GAHC010067742024



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

Case No. : I.A.(Crl.)/314/2024

MOTKA MARDI
S/O SIMON MARDI,
VILL.- JIYONPUR, P.S.- RUNIKHATA, DIST.- CHIRANG, ASSAM, PIN- 783375.

VERSUS

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

2:ROBIN MURMU
S/O NAYAN MURMU

R/O BANDAHIM KOCHA
P.S.- RUNIKHATA
DIST.- CHIRANG
ASSAM
PIN- 783375

Advocate for the Petitioner : MR J DAS (LEGAL AID COUNSEL)

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 04.04.2024
(M. Choudhury,J)

Heard Mr. J. Das, learned Legal Aid Counsel for the applicant-appellant and Ms. N. Das, learned Additional Public Prosecutor for the opposite party no. 1, State of Assam.

2. The instant interlocutory application under Section 5 of the Limitation Act, 1963 is preferred seeking condonation of delay of 134 days, which is stated to have occurred in preferring the connected appeal against a Judgment and Order dated 15.09.2023 passed by the learned Sessions Judge, Chirang, Kajalgaon [‘the trial court’, for short] in Sessions Case no. 18/2021. By the said Judgment and Order dated 15.09.2023, the applicant-appellant has been found guilty of charges under Section 302, Section 376 and Section 201, Indian Penal Code [IPC]. For the offence under Section 302, IPC, the applicant-appellant has been sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 50,000/-, in default of payment of fine, to undergo further imprisonment for 5 [five] years. The learned trial court, however, has not imposed any separate sentence for finding the applicant-appellant guilty for the offences under Section 376 and Section 201, IPC on the premise that the applicant-appellant has already been sentenced for imprisonment for life.

3. We have gone through the statements and averments made in Paragraphs 3 – 9 of the instant interlocutory application where the applicant-appellant has sought to explain the period of delay.

4. On going through the same, we are of the considered view that the applicant-appellant has been able to show sufficient cause for the period of delay of 134 days, which has occurred in preferring the connected appeal.

5. Ms. N. Das, learned Additional Public Prosecutor has fairly submitted that since the

charges for which the applicant-appellant has been found guilty by the learned trial court are serious in nature, the connected appeal should be considered on merits.

6. In view of the above and for the reasons assigned, we are inclined to allow the instant interlocutory application. Accordingly, the instant interlocutory application seeking condonation of delay of 134 days preferring the connected appeal is allowed.

7. The Registry to register the connected appeal and thereafter, list the appeal for admission.

J U D G E

J U D G E

Comparing Assistant