

GAHC010096052024



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

Case No. : I.A.(Civil)/1532/2024

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S/O HAIDAR HUSSAIN LASKAR,
VILL.- MAZUMDERBAZAR, TATAPUR PART-VI, P.O.-TARAPUR PART- VI,
P.S.- SILCHAR, DIST.- CACHAR, ASSAM, PIN- 788003.

VERSUS

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D/O AZIR UDDIN LASKAR,
VILL.- TUPKHANA PART- I, P.O.- ARUNACHAL, P.S.- SILCHAR, DIST.-
CACHAR, ASSAM, PIN- 788025.

Advocate for the Petitioner : MR. A M S MAZUMDER,

Advocate for the Respondent : MS. R CHOUDHURY, MR. Z. HUSSAIN, MS. B. HAZARIKA

In Mat. App./3869/2024
WITH Mat. App./3869/2024 (Filing Number)

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

20.11.2024

(S. K. Medhi, J)

1. The instant Interlocutory Application has been filed under Section 5 of the Limitation Act, 1963 for condonation of delay. The same has been filed in connection with a challenge made to a judgment dated 17.11.2023 passed by the learned Principal Judge, Family Court, Cachar, Silchar in F.C.(Crl.) Case No. 42/2021 which has been made by way of an appeal. After issuance of notice in the Interlocutory Application, the opposite party has entered appearance.
2. We have heard Shri AMS Mazumder, learned counsel for the applicant as well as Ms. R. Choudhury, learned counsel for the opposite party.
3. Ms. Choudhury, the learned counsel, by referring to Section 19 in the Family Courts Act, 1984, more particularly, Section 19 (2) has submitted that no appeal lies from the order which has been passed under Chapter IX of the Cr.P.C.
4. The instant challenge is against an order passed under the aforesaid provision of Chapter IX of the Cr.P.C.
5. In view of the above, the appeal is not maintainable.
6. At this stage, Shri Mazumder, learned counsel for the applicant submits that he may be allowed to withdraw the appeal

and make the challenge in the appropriate manner prescribed by law. He has also submitted that since the appeal itself was barred by time for which the Interlocutory Application has been filed, some observations may be made on that aspect.

7. After hearing, the appeal is allowed to be withdrawn with liberty to make the challenge in the manner prescribed.

8. It is needless to state that the applicant may take recourse to Section 14 of the Limitation Act, 1963, apart from the grounds taken in the present Interlocutory Application for condonation of delay which would be liable for consideration. We also direct the Registry to hand over back the certified copy of the order dated 17.11.2023 passed by the learned Principal Judge, Family Court, Cachar, Silchar in F.C.(Crl.) Case No. 42/2021 which was annexed to the appeal.

9. We make it clear that since objections were filed in the Interlocutory Application, the consideration of any application that may be filed for condonation of delay would be decided strictly in accordance with law and without being influenced by an observation made by us.

JUDGE

JUDGE

Comparing Assistant