

GAHC010102962024



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

Case No. : I.A.(CrI.)/545/2024

ABBAS ALI
S/O LATE JINAT ALI,
R/O LATANI CHAPORI, P.S.- RUPAHIHAT, DIST.- NAGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE P.P., ASSAM.

2:JOINUDDIN
S/O LATE AMZAT ALI

R/O LATANI CHAPORI
P.S.- RUPAHIHAT
DIST.- NAGAON
ASSAM.

3:ATOSH ALI
S/O LATE MOIZUDDIN

R/O LATANI CHAPORI
P.S.- RUPAHIHAT
DIST.- NAGAON
ASSAM.

4:SURUJ ALI
S/O LATE MOIZUDDIN

R/O LATANI CHAPORI
P.S.- RUPAHIHAT
DIST.- NAGAON
ASSAM.

5:ALALUDDIN
S/O MOIZUDDIN

R/O LATANI CHAPORI
P.S.- RUPAHIHAT
DIST.- NAGAON
ASSAM

Advocate for the Petitioner : MR. A GANGULY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

12.06.2024

[Manish Choudhury, J.]

Heard Mr. A. Ganguly, learned counsel for the applicant and Mr. K.K. Das, learned Additional Public Prosecutor for the opposite party no. 1, State of Assam.

The instant application under Section 5 of the Limitation Act, 1963 is preferred seeking condonation of delay of 37 days, which is stated to have occurred in preferring the accompanying criminal appeal.

The applicant as the appellant, has preferred the accompanying criminal appeal under the proviso to Section 372 of the Code of Criminal Procedure, 1973 ['Cr.P.C.' for short] against the Judgment and Order dated 25.01.2024 passed by the learned Sessions Judge, Nagaon ['trial court', for short] in Sessions (T-1) Case no. 14/2014. By the Judgment and Order dated 25.01.2024, the learned trial court has acquitted the opposite party no. 2 to opposite party no. 5, who stood in the trial, from the charges framed against them.

The applicant has averred that at an earlier point of time, the applicant had inadvertently filed a criminal appeal, being Criminal Appeal Filing Serial no. 2711/2024 on

21.03.2024, under Section 378, Cr.P.C. along with a criminal leave petition under Section 378[3] Cr.P.C., being Criminal Leave Petition no. 11/2024, seeking leave to file the criminal appeal. The said criminal appeal was filed within the period of limitation.

After withdrawal of the said criminal appeal, finding it to be not maintainable, pursuant to an order dated 24.04.2024, the accompanying criminal appeal has been preferred. During the process, the delay of 37 days have occurred.

Having regard to the explanation provided by the applicant as regards the delay of 37 days in preferring the accompanying appeal and the provisions contained in Section 14 of the Limitation Act, 1963, we are of the considered view that the applicant has been able to show sufficient cause as regards the delay of 37 days in preferring the accompanying criminal appeal.

Accordingly, the instant interlocutory application seeking condonation of 37 days delay in preferring the accompanying criminal appeal is allowed.

Office to register the accompanying criminal appeal and thereafter, to list the same.

Sd/- Robin Phukan
JUDGE

Sd/- Manish Choudhury
JUDGE

Comparing Assistant