

GAHC010110472024



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

Case No. : I.A.(CrI.)/515/2024

BORUN NAYAK
S/O SRI BASUDEV NAYAK,
R/O KRISHNA BIHARI TEA ESTATE, BORLINE, P.O. AND P.S.- DEMOW,
DIST.- SIVASAGAR, ASSAM.

VERSUS

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

2:DIPAK KHODAL
S/O LATE MOLAI KHODAL
R/O KRISHNA BIHARI TEA ESTATE
KATELASUWA
P.O. AND P.S.- DEMOW
DIST.- SIVASAGAR
ASSAM

Advocate for the Petitioner : MR. K GOGOI

Advocate for the Respondent : PP, ASSAM

Linked Case :

BORUN NAYAK

VERSUS

THE STATE OF ASSAM AND ANR E

Advocate for : MR. K GOGOI
Advocate for : appearing for THE STATE OF ASSAM AND ANR E

Linked Case :

BORUN NAYAK

VERSUS

THE STATE OF ASSAM AND ANR E

Advocate for : MR. K GOGOI
Advocate for : appearing for THE STATE OF ASSAM AND ANR E

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

ORDER

Date : 03-06-2024

[M. Choudhury, J]

Heard Ms. P. Borah, learned counsel for the applicant-appellant and Mr. K.K. Das, learned Additional Public Prosecutor for the opposite party no. 1, State of Assam.

2. The instant application is filed under Section 5 of the Limitation Act, 1963 seeking condonation of delay of seven days, which has occurred in preferring the accompanying criminal appeal under Section 374[2], Code of Criminal Procedure, 1973.

3. The accompanying criminal appeal is preferred against a Judgment and Order dated 10.01.2024 passed by the learned Sessions Judge, Sivasagar in Sessions Case no. 136[S-S]/2016. By the Judgment and Order dated

10.01.2024, the applicant-appellant along with three others has been convicted for the offence under Section 302, Indian Penal Code [IPC] read with Section 34, IPC and he has been sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 5,000/-, in default of payment of fine, to undergo simple imprisonment for further 3 [three] months.

4. The applicant-appellant has provided the explanations for the delay of 7 [seven] days, which has occurred in preferring the accompanying appeal, in paragraph 3 and paragraph 4 of the instant application. Having gone through the same, we are of the view that the applicant-appellant has been able to provide satisfactory explanation showing sufficient cause for the period of delay. Mr. Das, learned Additional Public Prosecutor has submitted that he has no objection if the accompanying appeal is heard on merits.

5. In any view of the matter, the cause of substantial justice is to be preferred. Accordingly, the instant application seeking condonation of delay of seven days stands allowed.

6. The office to register the connected appeal and thereafter, list the same for admission.

JUDGE

JUDGE

Comparing Assistant