

GAHC010140062024



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

Case No. : I.A.(Crl.)/697/2024

CHANDRA DAS AND 2 ORS.
S/O LATE NIRU DAS,
R/O HAPABARI, P.S.- KALAIGAON, DIST.- UDALHURI, ASSAM, PIN- 784525.

2: KIRAN DAS
W/O CHANDRA DAS

R/O HAPABARI
P.S.- KALAIGAON
DIST.- UDALHURI
ASSAM
PIN- 784525.

3: BROJENDRA @ BRAJESWAR DAS
R/O HAPABARI
P.S.- KALAIGAON
DIST.- UDALHURI
ASSAM
PIN- 784525

VERSUS

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

2: MANIKA DAS
W/O LATE SUBASH DAS

R/O HAPABARI
P.S.- KALAIGAON
DIST.- UDALHURI
ASSAM
PIN- 784525

Advocate for the Petitioner : MR. A K AZAD, MS S DEVI

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 02.08.2024

[Manish Choudhury, JJ]

Heard Mr. A.K. Azad, learned counsel for the applicants-appellants and Ms. A. Begum, learned Additional Public Prosecutor for the opposite party no. 1, State of Assam.

2. The instant application under Section 5 of the Limitation Act, 1963 is preferred seeking condonation of delay of 29 days, which is stated to have occurred in preferring the accompanying criminal appeal.

3. The accompanying criminal appeal is preferred by the applicants-appellants against a Judgment dated 28.03.2024 and an Order of sentence dated 30.03.2024 passed by the learned Additional Sessions Judge, Udalguri, Assam [‘the trial court’] in Sessions [I] Case no. 123/2018. By the said Judgment And Order, the applicants-appellants have been convicted by the learned trial court for the offences under Sections 341/323/302, Indian Penal Code [IPC] read with Section 34, IPC and each of them have been sentenced under Section 302, IPC read with Section 34, IPC to undergo rigorous imprisonment for life and to pay a fine of Rs. 5,000/- each, with default stipulation. For the offences under Sections 341/34, IPC and Sections 323/34, IPC different terms of imprisonment have been passed against the applicants-appellants.

4. We have perused the statements and averments made in this application, more particularly, in paragraph 3 thereof wherein the applicants-appellants have explained the reason for preferring the accompanying appeal after 29 days beyond the period of limitation.

5. Ms. Begum, learned Additional Public Prosecutor has submitted that since the applicants-appellants are found guilty of the offence under Section 302, IPC and they are undergoing sentences of life imprisonment, interest of justice would be better sub-served if the accompanying appeal is heard on merits.
6. Having gone through the reasons give in the application as regards the delay we are of the considered view that the applicants-appellants have been able to explain the reasons for delay of 29 days showing sufficient cause.
7. In the above view of the matter; and as each of the applicants-appellants are undergoing life imprisonment; interest of justice will be better subserved if the criminal appeal is heard on merits, by condoning the delay of 29 days.
8. Accordingly, the instant application seeking condonation of delay of 29 days in preferring the accompanying appeal stands allowed.
9. The Registry to register the accompanying appeal and thereafter, list the appeal for admission.

JUDGE

JUDGE

Comparing Assistant