

GAHC010157392024



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

Case No. : I.A.(CrI.)/715/2024

PADMADHAR DAS AND ANR.
S/O LATE MONIRAM DAS,
VILL.- BORBORI, P.S.- NARAYANPUR, DIST.- LAKHIMPUR, ASSAM.

2: TILAK DAS
S/O LATE MANIKDAS

VILL.- BORBORI
P.S.- NARAYANPUR
DIST.- LAKHIMPUR
ASSAM

VERSUS

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

Advocate for the Petitioner : MR. B CHOWDHURY,

Advocate for the Respondent : PP, ASSAM,

Linked Case :

PADMADHAR DAS AND ANR

VERSUS

THE STATE OF ASSAM H

Advocate for : MR. B CHOWDHURY
Advocate for : appearing for THE STATE OF ASSAM H

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

ORDER

09.08.2024

[Manish Choudhury, J.]

Heard Mr. B. Chowdhury, learned counsel for the applicants-appellants and Ms. A. Begum, learned Additional Public Prosecutor for the opposite party State.

2. The instant application under Section 5 of the Limitation Act, 1963 is preferred seeking condonation of delay of 12 days, stated to have occurred in filing the accompanying criminal appeal under Section 374[2], Code of Criminal Procedure [CrPC], 1973. The accompanying criminal appeal is preferred against a Judgment & Order dated 18.11.2023 passed by the Court of learned Sessions Judge, Lakhimpur, North Lakhimpur [‘the trial court’, for short] in Sessions Case no. 78[NL/2013. By the Judgment & Order dated 18.11.2023, the applicants-appellants have been convicted for the offence under Sections 341/326/302, Indian Penal Code [IPC] r/w Section 34, IPC. For the offence under Section 302, IPC, the applicants-appellants have been sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 15,000/-, with default stipulation. For the other offences, the applicants-appellants have been sentenced to undergo different terms of imprisonment.

3. The applicants-appellants have explained the reasons for the delay of 12 days in preferring the accompanying appeal in paragraph nos. 4 and 5 of the application.

4. We have gone through the statements and averments made in this application, more particularly, in paragraph nos. 4 and 5 thereof.

5. Ms. Begum, learned Additional Public Prosecutor for the opposite party State has submitted that no instruction has been received to oppose the instant application, which has been preferred for condonation of delay in preferring the accompanying criminal appeal.

6. Having considered the reasons shown for the delay, we find that the applicant-appellant has been able to explain the period of delay showing sufficient cause. In any view of the matter, we find that ends of justice will be better subserved if the accompanying appeal is heard on merits, as the applicants-appellants have been sentenced to life imprisonment. Accordingly, the instant application is allowed condoning the period of delay of 12 days beyond the period of limitation.

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

JUDGE

JUDGE

Comparing Assistant