

GAHC010213622024



2024:GAU-AS:12769

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

Case No. : I.A.(Crl.)/1084/2024

KRISHNA KANTA BORUAH
S/O SRI BIPIN BORUAH
A RESIDENT OF VILL- LAKHIMIGAON,
P.O. BONGALCHUCK, P.S. NORTH LAKHIMPUR,
DIST. LAKHIMPUR, ASSAM, PIN-787031

VERSUS

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

2:SMTI. CHITRA REKHA ROY RAJKHOWA
W/O SRI HEMANTA RAJKHOWA

R/O VILL- KARIGAON
P.O. DOOLAHAT
P.S. NORTH LAKHIMPUR

DIST. LAKHIMPUR
ASSAM

PIN-78702

Advocate for the Petitioner : MR. J C GOGOI, MR B ISLAM

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

16.12.2024

Heard Mr. B. Islam, learned counsel for the applicant. Also heard Mr. K. Baishya, learned Additional Public Prosecutor for the State respondent No. 1.

This is an application under Section 5 of the Limitation Act, 1963 praying for condonation of delay of 13 days in filing the connected interlocutory application, being I.A. (Crl.) No. 1085/2024, which has been preferred for restoration of Crl. Pet. No. 274/2024.

It is submitted by Mr. Islam, learned counsel for the applicant, that on 19.08.2024, when the criminal petition was listed, the learned engaged counsel for the petitioner could not appear before the Court as they were busy in other Court and the matter was dismissed for non-prosecution. However, after passing of the said dismissal order, the application for restoration could not be filed within the statutory period of limitation due to inadvertent mistake of the counsel and hence, there occurred a delay of 13 days in preferring the connected interlocutory application, being I.A.(Crl.) No. 1085/2024, for restoration of criminal petition. He further submitted that there is no negligence on the part of the petitioner and due to inadvertent mistake of the engaged counsel only, the delay has occurred and accordingly prayed that the delay may be condoned.

Mr. Baishya, learned Additional Public Prosecutor, submitted in this regard that the cause of delay mentioned in the applicant is not satisfactory. However, considering the fact that the delay is of 13 days, the same may be condoned for the interest of justice.

Considering the submissions made by the learned counsels for both sides and also for the interest of justice, the present interlocutory application is hereby allowed and the delay of

13 days in preferring the connected interlocutory application, being I.A.(Crl.) No. 1085/2024, is hereby condoned.

In terms of above, this interlocutory application stands disposed of.

JUDGE

Comparing Assistant