

GAHC010291382023



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

Case No. : I.A.(Crl.)/1269/2023

GOPAL SAIKIA
S/O SHRI NUMAL SAIKIA,
R/O SEWAGURI, DHANSIRIPAR, P.S.- BORPATHAR, DIST.- GOLAGHAT,
ASSAM.

VERSUS

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

2:RAMEN SAIKIA
S/O SHRI KULESWAR SAIKIA
R/O SEWAGURI
DHANSIRIPAR
P.S.- BORPATHAR
DIST.- GOLAGHAT
ASSAM- 785602

Advocate for the Petitioner : MR. C BORUAH

Advocate for the Respondent : PP, ASSAM

Linked Case :

GOPAL SAIKIA

VERSUS

THE STATE OF ASSAM AND ANR. H

Advocate for : MR. C BORUAH
Advocate for : appearing for THE STATE OF ASSAM AND ANR. H

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 15/05/2024

Suman Shyam, J

Heard Mr. C. Boruah, learned counsel appearing for the applicant/appellant. We have also heard Ms. S. Jahan, learned APP, Assam, appearing for the State.

Perused the office note dated 06/05/2024, which goes to show that notice sent to the respondent no. 2 has returned unserved on the ground "addressee out of station".

This IA has been filed under section 5 of the Limitation Act, 1965 with a prayer to condone the delay of 27 days in filing the connected appeal.

By the judgement and order dated 22/03/2023, the applicant herein had been convicted by the learned Special Judge, POCSO, Golaghat, under section 6 of the POCSO Act, 2012 and sentenced to undergo rigorous imprisonment for 20 years and also to pay fine of Rs. 10,000/- with default stipulation.

By referring to the statements made in the application, Mr. Boruah submits that although an attempt has been made to explain the delay, yet, in reality, due to some personal difficulty faced by the learned counsel for the applicant owing to a medical emergency in the family, there was delay of 27 days in filing the appeal.

Ms. S. Jahan, learned APP, Assam, submits that she does not have any instruction to file objection opposing the prayer made in the IA.

Taking note of the explanation furnished by the applicant's counsel and in view of the fact that

the appellant has a statutory remedy to file an appeal against the judgement and order of conviction, although, the respondent no. 2 is not present before us, yet, we are of the view that ends of justice would be met if the delay of 27 days in filing the appeal is condoned and the appeal is taken up on merit.

We, accordingly, condone the delay of 27 days in filing the connected appeal.

Registry to register the appeal and list for admission.

IA stands disposed of.

JUDGE

JUDGE

sukhamay

Comparing Assistant