

GAHC010292212023



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

Case No. : I.A.(Crl.)/10/2024

FIROJ ALI @ RAJU
S/O MD. RAFIAT ALI
R/O BARIKACHUBURI
P.S. TEZPUR
DIST. SONITPUR, ASSAM
PIN- 784001

VERSUS

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

2:SRI RAMANI DEKA
S/O SRI GHANASHYAM DEKA
R/O L.B. ROAD
TEZPUR
P.S. TEZPUR
DIST. SONITPUR
ASSA

Advocate for the Petitioner : MR D K MEDHI

Advocate for the Respondent : PP, ASSAM

Linked Case :

FIROJ ALI @ RAJU

VERSUS

THE STATE OF ASSAM AND ANR (B)

Advocate for : MR D K MEDHI
Advocate for : appearing for THE STATE OF ASSAM AND ANR (B)

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

10.04.2024

Heard Ms. P. Baruah, learned counsel for the applicant. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

This is an application filed under Section 5 of the Limitation Act, 1963, praying for condonation of delay of 81 days in filling the Criminal Revision under Section 397 *read with* Section 401 of Cr. P. C.

Office Note dated 05.04.2024 reveals that the notice issued upon the respondent No. 2 has been received back with a postal remarks "Addressee left without instruction".

In this regard, Ms. Baruah, learned counsel for the applicant has submitted that the respondent No.2 was a tenant in that locality at the relevant time of the incident and hence, his proper address could not be collected.

However, she submitted that he also remained absent before the Appellate Court and accordingly, she prayed to condone the delay in filing the connected revision petition.

Ms. Baruah, learned counsel for the applicant also submitted that the applicant is a daily wage earner and he was not aware about the period of filing the revision petition. Further, she submitted that earlier the applicant had contacted one advocate for conducting the case, but, as he could arrange the necessary fees and thus, the said advocate had not taken any steps to file the revision petition. Subsequently, he consulted with another advocate in preferring the revision petition and hence, in that process there was a delay of 81 days in filing the revision petition. She further submitted that there is no laches or negligence on the part of the applicant, but, due to some unavoidable circumstances only there was a delay of 81 days in filing the revision petition. The reason for delay has already been explained in paragraph No. 5 of the present application. Accordingly, it is submitted that the delay is not deliberate but a *bona fide* one and, therefore, it is prayed to condone the same.

In this context, Mr. P. Borthakur, learned Additional Public Prosecutor has raised no objection in condoning the delay of 81 days in preferring the connected revision petition.

In view of above and also for the ends of justice, the Interlocutory Application for condonation of delay is hereby allowed and the delay of 81 days in preferring the connected revision petition stands condoned.

Registry is hereby directed to register the connected criminal revision petition and shall list the same in usual course.

The Interlocutory Application stands disposed of in terms above.

JUDGE

Comparing Assistant