GAHC010014612025

2026:GAU-AS:15510

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

Case No. : Crl.Rev.P./22/2025

SMT MANJU TALUKDAR CHOUDHURY
W/O-BISWAJIT CHOUDHURY
R/O-K.K HANDIQUE NAGAR, NEAR BIHU FIELD, KAHILIPARA,
P.O. KAHILIPARA, P.S. DISPUR
DIST. KAMRUP (M) ASSAM

VERSUS

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

2:SRI JAYANTA DEURI
S/O LATE LAKHYAPATI DEURI
R/O NABAGRAHA GOLAK DHAM
SILPUKHURI
P.O.SILPUKHURI
P.S. CHANDMARI GUWAHATI-781003
DIST. KAMRUP (M) ASSAM

Advocate for the Petitioner : MR. S N KRISHNATRAYA,

Advocate for the Respondent : PP, ASSAM, MS. T GHOSH (R-2),MS. R R MUZIB (R-2)

BEFORE

HON'BLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

13.10.2026

Heard Mr S N Krishnatreya, learned counsel for the petitioner and Mr D P Goswami, learned Additional Public Prosecutor for the State of Assam. Also heard Ms R R Muzib, learned counsel appearing for the respondent No. 2.

2. By this application filed under Sections 438/442, read with Section 528 of the BNSS, 2023, the petitioner has challenged the order dated 04.11.2024, passed in Misc Case No. 31/2024, by the Additional Sessions Judge (FTC) No. 3, Kamrup (Metro), at Guwahati, by which the delay of 5 days in preferring the appeal against the judgment and order dated 12.06.2024, passed by the CJM, Kamrup (Metro) at Guwahati in Complaint Case No. 3253/2021 was not condoned. Although in the instant application, the judgment and order dated 12.06.2024, passed by the CJM, Kamrup (M) at Guwahati, in Complaint Case No. 3253 of 2021, is also challenged and a prayer is also made for quashing, the learned counsel submits that he is not pressing for the same and that only the order rejecting the condonation of delay, is challenged.

3. The case of the petitioner is that the petitioner was convicted under Section 138 of the NI Act and was sentenced to pay an amount of Rs. 5,50,000/- to respondent No. 2 and in default, she was further directed to undergo SI for a period of 6 months. The petitioner preferred the challenge to the said judgment and order by filing an appeal before the Additional Sessions Judge (FTC) No. 3, Kamrup (M), with the application for condonation of delay of 5 days and the learned Court by order dated 04.11.2024, had rejected the application for condoning the delay of said 5 days.

4. The learned counsel for the petitioner submits that in the delay condonation application, the ground for condoning was, stated to be on the ailment of the petitioner's son. He stated that the petitioner's son was admitted in the hospital as indoor patient and he was under treatment even before that, and as such, the petitioner could not file the appeal in the appropriate time. The learned Court took into account the said submission, but rejected the same on the ground that the judgment was passed on 12.06.2024, and the son of the petitioner was admitted in the hospital on 17.07.2024 due to the ailment. As such, the Court held that the son of the petitioner was undergoing treatment much after the judgment and order passed by the CJM, Kamrup (M). It is also held that although in the petition, the delay was stated to be of 5 days, but the actual delay was

found to be of 12 days, on the ground that the appeal was filed on 24.07.2024 and the son of the petitioner was admitted in the hospital on 17.07.2024, i.e., after the expiry of the limitation period, i.e., on 12.07.2024. On those grounds, the said application was rejected by the Sessions Court. The learned counsel for the petitioner submits that although the son of the petitioner was admitted in the hospital on 17.07.2024, but he was undergoing treatment as an outdoor patient much before that, and as such, the petitioner could not prefer the appeal in time.

5. On the other hand, Ms R R Muzib, learned counsel for the respondent No. 2, submits that the delay was not of 5 days but of 12 days, and that there is no infirmity in the order of the Sessions Judge, dated 04.11.2024. The learned counsel also submitted that the petitioner had not submitted enough medical documents, except one to substantiate the claim.

6. I have heard the learned counsels and I have gone through the records.

7. It is the mandate of law under Section 5 of the Limitation Act that an appeal or any application may be admitted after the prescribed period if the applicant satisfies the Court that he has sufficient cause for not preferring the appeal or making the application within such period. In the instant case, it is stated by the applicant that the petitioner was busy with the ailment of her son and that her son was suffering from respiratory failure/pneumonia etc. It is also stated that the son of the petitioner was admitted in the hospital on 17.07.2024, i.e., after the Judgment and Order dated 12.06.2024, but he was under treatment before that. It is also seen that the certified copy of the judgment was received by the petitioner on 26.06.2024, and the 30 days from the said day would end on 26.07.2024, and the appeal was filed on 24.07.2024. On a *prima facie* examination, it seems that the appeal was filed within time. Further, be that as it may, whether the delay was of 12 days or 5 days, or no delay at all, the same has been explained by the petitioner by submitting a medical document thereof. As such, this Court deems it fit to set aside the order dated 04.11.2024, for the ends of justice, and the Additional Sessions

Judge (FTC) No. 3, Kamrup, is further directed to condone the delay and to hear the appeal. Further, in view of the judgment passed by this Court, the NBWA issued against the petitioner by order dated 21.11.2024, be kept in abeyance, till the appeal is taken up by the appellate Court.

8. The Criminal Revision Petition stands disposed of, accordingly.

JUDGE

Comparing Assistant