

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).1545/2010

(From the judgement and order dated 09/01/2006 in CRLA No. 283/2003  
of The HIGH COURT OF GUWAHATI ,ASSAM)

SRI BAP BORA Petitioner(s)

VERSUS

STATE OF ASSAM Respondent(s)

(With appln. for c/delay in filing SLP and office report )

Date: 07/05/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN  
HON'BLE MR. JUSTICE C.K. PRASAD

For Petitioner(s) Mr. M.Qamaruddin,Adv.

For Respondent(s) Mr.Rutwik Panda, Adv.for  
M/S Corporate Law Group

UPON hearing counsel the Court made the following  
O R D E R

Delay condoned.

Leave granted.

The appeal is allowed.

[ Usha Bhardwaj ]  
Court Master

[ Pushap Lata Bhardwaj ]  
Asstt.Registrar

Signed order is placed on the file.  
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1027 OF 2010  
(Arising out of SLP (Criminal) No. 1545 of 2010)

Sri Bap Bora .. Appellant(s)

Versus

State of Assam .. Respondent(s)

O R D E R

Delay condoned.

Leave granted.

This appeal, by special leave, is directed against the final judgment and order dated 9th January, 2006 passed by the Gauhati High Court in Criminal appeal No.283 of 2003. By the impugned judgment, the High Court has affirmed the conviction of the appellant for an offence punishable under Section 302 of the Indian Penal Code, 1860.

For the view we propose to take in the case, we deem it unnecessary to state the facts giving rise to the present appeal.

From the impugned judgment it is evident that at the time of final hearing of the appeal, the appellant was not represented by any counsel. The High Court proceeded to hear the appeal, with the assistance of the public prosecutor glanced through the evidence on record and upheld the conviction of the appellant.

It has been the consistent view of this Court that if the sentence imposed by the judgment impugned in the appeal is of a substantial range, like in the present case,  
:2:

and the appellant remains unrepresented, the Court should appoint some Advocate as amicus curiae to assist it on behalf of the appellant before proceeding to dispose of the appeal on merits. As already stated, in the present case, having recorded that "none appears" for the appellant, the High Court should have appointed an amicus curiae. The High Court having failed to do so, the impugned judgment cannot be sustained.

Accordingly, the appeal is allowed; the impugned judgment is set aside and the matter is remitted back to the High Court for a fresh hearing on merits. In the application seeking condonation of delay in filing this appeal from jail, the appellant has stated that he has no means to prosecute his case. Under the circumstances, we would request the High Court to appoint an amicus curiae or direct the Legal Aid Committee to nominate an experienced

Advocate to represent the appellant.

It appears that the appellant has been in custody since January, 2001. We request the High Court to dispose of the appeal as expeditiously as practicable.

.....J.  
[ D.K. JAIN ]

.....J.  
[ C.K. PRASAD ]

NEW DELHI,  
MAY 07, 2010.