



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

Case No. : Crl.Rev.P./25/2023

Rinchin Dorjee
Son of Late Phuntso,
Resident of Rangthang Jorpam, PO/PS Kalaktang, West Kameng District, Arunachal Pradesh.
Phone No. 9402854448

VERSUS

THE STATE OF AP
Through the Public Prosecutor, Arunachal Pradesh.

Advocate for the Petitioner : Dicky Panging, D Tamuk, M Doji, D Lona, K Ado,
R. C. Lowangcha, M Gadi

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 03-10-2023

Heard Mr. M. Doji, learned counsel for the petitioner. Also heard Mr. T. Ete, learned Additional Public Prosecutor for the State of Arunachal Pradesh.

2. This is an application under Section 397, read with Section 401 of the Code of Criminal Procedure, 1973, praying for quashing of the order, dated

13.07.2023, passed by the learned Special Judge (NDPS), Bomdila in NDPS Case No. 14/2022, wherein charges against the petitioner has been framed under Section 20 (b)(ii)(C) of the NDPS Act.

3. Mr. Ete, learned Additional Public Prosecutor by referring to Chapter XI, Rule 1. A of the Gauhati High Court Rules, submits that in an application filed under Section 397/401 of the Cr.P.C., it is obligatory for the appellant(s)/petitioner(s) to implead the informant(s)/complaint(s)/victim(s) or the accused persons(s), as the case may be, as respondent(s) in the revision petition(s) filed. He therefore, submits that since this revision petition under Section 397, read with Section 401 of the Code of Criminal Procedure, 1973, has been filed without arraying the informant(s)/complaint(s)/victim(s) or the accused persons(s) as a party respondent, the instant revision petition is not maintainable.

4. Mr. Doji, learned counsel appearing for the petitioner on the other hand submits that the informant in the instant case is a Police Officer. When the informant is a Police Officer, it is not necessary for the petitioner or the appellant, as the case may be, to implead the informant as party respondent under Chapter XI, Rule 1. A of the Gauhati High Court Rules.

5. Chapter XI, Criminal Business, A – General Business, Rule 1. A of the Gauhati High Court Rules, reads as under:

“...1.A. It shall be obligatory for the appellant(s)/petitioner(s) to implead the informant(s)/complaint(s)/victim(s) or the accused persons(s), as the case may be, as respondent(s) in the appeal(s) filed under Section 378 of the Code of Criminal Procedure or under proviso to Section 372 of the Code and also in the revision petition(s) under Section 397/401 or in the petition filed under Section

482 of the Code of Criminal Procedure.”

6. From reading of Chapter XI, Rule 1. A of the Gauhati High Court Rules, it appears that in an application filed, *inter alia*, under Section 397/401 of the Cr.P.C, it is obligatory for the petitioner(s) to implead the informant(s)/ complaint(s)/ victim(s) or the accused persons(s), as the case may be, as respondent(s) in the appeal(s) or the revision petition. On a careful reading of the Chapter XI, Rule 1. A of the Gauhati High Court Rules, it does not appear to make any distinction regarding the informant(s)/ complaint(s)/ victim(s) or the accused persons(s) being a Police Officer or otherwise.

7. In that view of the matter, I am of the considered view that in an application filed under Section 397/401 of the Cr.P.C, it would be necessary for the appellant/petitioner to implead informant(s)/ complaint(s)/ victim(s) or the accused persons(s), as the case may be, as respondent(s), irrespective of the informant(s)/ complaint(s)/ victim(s) or the accused persons(s) is/are a Police Officer or otherwise. Since the instant revision petition has been filed not in conformity with the Chapter XI, Criminal Business, A – General Business, Rule 1. A of the Gauhati High Court Rules, the same stands dismissed.

JUDGE

Comparing Assistant