

GAHC010007802013



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

Case No. : CrI.A./159/2013

SHYAMAL DAS and ANR.

S/O SRI SHYAM PADA DAS, C/O SRI DILIP CHACKRABORTY, VILL. TIRUAL
GAON, P.O. and P.S. MARIANI, DIST. JORHAT, ASSAM, PIN 785634

2: MUSSTT. ANOWARA BEGUM

W/O LATE SARIFUL ISLAM
VILL.MOROGIAL GAON
P.O. and P.S. MARIANI
DIST. JORHAT
ASSAM
PIN 78563

VERSUS

STATE OF ASSAM

Advocate for the Petitioner : MR.B C DAS

Advocate for the Respondent : PP, ASSAM

:::BEFORE:::

HON'BLE MRS. JUSTICE MITALI THAKURIA

Date of hearing : 19.07.2023

Date of judgment & order : 25.08.2023

JUDGMENT & ORDER (CAV)

Heard Mr. B. C. Das, learned counsel for the appellants. Also heard Ms. A. Begum, learned Additional Public Prosecutor for the State respondent.

2. This is an appeal under Section 374 of the Code of Criminal procedure, 1973, against the judgment and order dated 17.12.2012, passed by the learned Special Judge, Jorhat, in Special Case No. 04/2011, convicting the accused/appellants under Section 21(C) of the NDPS Act and sentencing them to suffer R.I. for 10 (ten) years each and also to pay a fine of Rs. 1,00,000/- (Rupees one lakh) only each in default S.I. for 6 (six) months.

3. The brief fact of the prosecution case is that an F.I.R. was lodged by one Shri Roma Kanta Bora, ASI of Police, alleging *inter alia* that on 04.11.2011, at about 1.30 a.m., while he along with his staff were doing the patrolling duty, they noticed one vehicle, bearing Registration No. AS-03C/2991 (Maruti Car), coming from Mariani side and while the vehicle reached at Khatisona Tini-Ali, he, on suspicion, asked the vehicle to stop and accordingly, the vehicle was stopped. But, while the vehicle was about to stop, one packet was seen to be thrown out from the vehicle and immediately the packet, which was thrown outside, was picked up and it was found that around 4274 numbers of loose SPM-PRX capsules were inside packet. Accordingly, it was seized and a case was registered, being Mariani P.S. Case No. 133/2011, under Section 21(C) of the NDPS Act. The sample was accordingly sent to FSL Guwahati for examination and the FSL report gave the positive test for propoxyphene.

4. After investigation, Charge-Sheet was also filed against the accused appellants under Section 21(C) of the NDPS Act and the case was accordingly referred to the Court of learned Special Judge, Jorhat, which was accordingly registered as Special Case No. 4/2011, under Section 21(C) of the NDPS Act. The charge was accordingly framed and read over to the accused/appellants where they pleaded not guilty and claimed to be tried.

5. The prosecution examined as many as 7 (seven) numbers of witnesses in support of their case, but no defence witness was examined by the defence and the accused/appellants pleaded not guilty while recording their statements

under Section 313 Cr.P.C. After hearing the arguments put forwarded by both sides and considering the materials on record, the learned Special Judge, vide judgment and order dated 17.12.2012, convicted the accused/appellants under Section 21(C) of the NDPS Act and sentenced them to undergo R.I. for 10 (ten) years and to pay fine of Rs. 1,00,000/- each in default S.I. for 6 (six) months.

6. On being highly aggrieved and dissatisfied with the judgment and order passed by the learned Special Judge in Special Case No. 4/2011, the convict appellants have preferred the present appeal on the following grounds, amongst others:

- (i) That the learned Special Judge erred in both law and facts and without appreciating the evidence in its true perspective had passed the judgment and order, which is bad in law and liable to be set aside.
- (ii) That the learned Special Judge failed to appreciate the fact that from the deposition of the prosecution witnesses, the offence under Section 21(C) of the NDPS Act is not established against the accused/ appellants beyond all reasonable doubt and hence, the judgment and order, convicting the accused/ appellants, is illegal and liable to be set aside.
- (iii) That there is no evidence that the seized capsules were recovered

from the exclusive possession of the appellants and there are no independent witnesses to corroborate the fact of seizure and merely on the strength of the testimony of the police personnel, the appellants were convicted, which is illegal and liable to be set aside.

- (iv) That from the evidence of the PW-6, A.S.I. of Police, it is seen that at the time of occurrence, he was accompanied by his staff and the packet was also picked up as per his direction, but the I.O. did not obtained the signature in the seizure list and he does not know as to whether the I.O. obtained the signature of the staff or not.
- (v) That the prosecution has totally failed to prove the fact of seizure of the capsules from the exclusive possession of the accused/appellants and there is no independent witness to support the prosecution case in regards to recovery and seizure of the capsules from the possession of the accused appellants and thus, both the accused appellants are entitled for a benefit of doubt and accordingly, the judgment is liable to be set aside.

7. It is submitted by Mr. B. C. Das, learned counsel for the appellants, that the impugned judgment and order caused grave miscarriage of justice and without appreciating the evidence, the learned Special Judge convicted the accused/appellants and hence, the same is liable to be set aside. At the time of argument, the learned counsel for the appellants further submitted that the PW-

1- Sanjib Gogoi @ Bhaitikan, deposed that on 04.11.2011, his vehicle was hired by the accused from Mariani Railway Station to Deberapara Chari Ali and when they reached Khatiasana Tini-Ali, police asked them to stop the vehicle and at that time, one of the accused person, who was sitting in the backside of the vehicle, open the left side door and threw some packets. He also clearly stated that one lady accused, i.e. Manuwara Begum and one Dilip Chakraborty, were sitting in the backside seat and the left side of the car was occupied by Dilip Chakraborty and the other accused person- Shyamal Das was sitting in the front seat. Further it is submitted that from the evidence of PW-1, it also reveals that he did not witnessed when the packets were thrown, but he heard the sound of opening the door of the vehicle. But the learned Special Judge did not consider the fact that neither the appellant- Manuwara Begum nor the other accused appellant- Shyamal Das had the exclusive possession of the packet which was alleged to have been thrown from the car where all the 3 (three) accused persons, along with PW-1, were coming from Mariani Railway Station to Deberapara Chari Ali. As per the PW-1, it is the other accused- Dilip Chakraborty who threw the packet from the backside seat door of the car on the left side where he was sitting. It is a fact that all the 3 (three) accused persons were sitting in the same car, but there is no one who had saw while throwing the packet from the car and furthermore, there is no evidence that the accused/ appellants were in exclusive possession of the contraband to fulfill the ingredients of Section 21(C) of the NDPS Act.

8. The learned counsel for the appellants further submitted that the PW-2

simply deposed that he did not know the accused persons prior to the incident and he got the information from the PW-1 about the incident. PW-3 was present at the place of incident as per request of the police, who asked him to stand as a witness. He noticed that some capsules were kept in the table of the Deberapar Out-Post and except that he does not know about any recovery of the capsules from the possession of the accused persons. PW-4 also narrated the same story and as per him also, on the day of occurrence, at about 1.30 a.m., police called him to Deberapar Out-Post and when he went to the Out-Post, he noticed some capsules kept on a table and apart from that, he was not aware from whom the capsules were seized or from whose possession those were recovered by police.

9. The learned Additional Public Prosecutor, Ms. A. Begum, submitted in this context that there are sufficient evidence to prove the case of the prosecution and the learned Special Judge rightly passed the order of conviction against the present accused appellant. Further it is submitted that the contraband was thrown from the car where the accused appellants were coming towards Deberapara Chari Ali from Mariani Railway Station and hence, the recovery of the contraband from the exclusively possession of the accused appellants is duly proved by prosecution side and therefore, there is no reason to make any interference in the judgment and order passed by the learned Special Judge in Special Case No. 4/2011, dated 17.12.2012.

10. After hearing the submissions made by the learned counsels for both

sides, I have perused the case record and the judgment and order, dated 17.12.2012 passed by the learned Special Judge, Jorhat, in Special Case No. 4/2011.

11. As stated above, it is the case of the prosecution that on the day of incident, the PW-6, along with his staff, while doing patrolling duty, stopped the vehicle where the present accused appellants along with one Dilip Chakraborty were coming from Mariani side and before the car stopped, one packet was thrown outside the car from the left side of the vehicle by one of the occupant, which was subsequently recovered by police and on opening of the packet, it was found that there were around 4274 numbers of used SPM-PRX capsules. The FSL report also gave the positive result and it is opined that the capsules gave positive test for propoxyphene. The FSL report also describes the quantity of the propoxyphene in the seized capsules after examining the sample which was sent to FSL for examination. The prosecution examined as many as 7 (seven) numbers of witnesses in support of their case. So, to arrive at a just decision, let us evaluate the evidence of the prosecution witnesses.

12. PW-1, Shri Sanjib Gogoi, deposed that his vehicle was hired by the accused persons from Mariani Railway Station and when they reached near Khatisona Tini-Ali, at about 1.30 a.m., the police personnel asked them to stop the vehicle and when they tried to stop the vehicle, at that moment, one of the accused person sitting in the backside of the vehicle, opened the door on the left side and threw a packet from the vehicle. Thereafter, as per direction of

the police, all the accused persons got down from the vehicle and one of the accused- Dilip Chakraborty also led the police to recover the packets which he had thrown while sitting in the backside seat of the vehicle. During his examination, he also exhibited the packets containing capsules as Material Exhibit-1, the railway tickets of the accused persons as Material Exhibit-2 and also exhibited his statement recorded under Section 164 Cr.P.C.

13. From his cross-evidence, it reveals that he did not see anyone while throwing the packets from his car, but he heard a sound of opening the backside door. Further, from his cross-evidence, it also reveals that the accused- Dilip Chakraborty was sitting in the backside seat on the left side of the vehicle.

14. PW-2, Shri Rupam Borah, testified that he did not know the accused persons prior to the incident and he is the owner of the vehicle and the incident was informed to him by PW-1. He was informed over telephone by PW-1 that the vehicle was brought in the police station and he requested him to come to the police station. Accordingly, he came to the police station and noticed the accused persons there. Thereafter, from police he came to know that the accused persons were carrying the drugs in his vehicle while they were coming from Mariani Railway Station.

15. From the testimony of the PW-3, Shri Rinku Sonowal, it is seen that he came to the police station as he was called by the police personnel and he saw that accused persons in the police station and also saw some seized articles

which were kept on the table. He further stated in his cross-evidence that he did not accompany police to Khatisona and no articles were seized in his presence by police. He has no knowledge about the recovery of the drugs from the possession of the accused persons. However, this evidence was declared as hostile by the prosecution. During cross-examination, he admitted his signature on the seizure list.

16. PW-4, Shri Kanai Malakar, is also another seizure witness and he deposed that on the day of incident, at about 1.30 a.m., he came to the police station as per the instruction of police and he noticed some capsules on the table of the Deberapa Police Out-Post, but he has no personal knowledge about the seized articles. However, he put his signature on the seizure list and also identified on the Material Exhibits. In his cross evidence, he stated that his signature was obtained in the Police Out-Post, though he had no knowledge about the contents of the seizure list.

17. PW-5, Shri Gajendra Nath Deka, is the Scientific Officer who received the sample packet in connection with this case and accordingly, on examination, the sample gave positive test for propoxyphene and the amount of propoxyphene were found to be 58.76, 59.10, 58.02, 59.13, 57.81, 59.01, 58.53, 59.02, 57.91 & 58.54 respectively and accordingly he exhibited the report.

18. PW-6, Shri Roma Kanta Bora, the ASI of Police, who is the most vital witness of the prosecution, testified that on the day of incident, he was on

patrolling duty and on suspicion, he intercepted the Maruti vehicle. He disclosed that from the backside seat of the said vehicle, one person, who along with one lady with her baby were sitting, thrown a packet by opening the left side door of the vehicle. Accordingly, he directed the person, who was sitting in the backside seat on the left side of the vehicle, to pick up the packet and then he noticed that some capsules were packed inside the packet and accordingly, he informed the In-Charge of Deberapar Police Out-Post about the said incident. Accordingly, the In-Charge reached the spot and after his arrival in presence of the witnesses, the packet was opened where some capsules were found to be kept inside the packet. Thereafter, he brought the accused persons along with the vehicle to Deberapar Police Out-Post and one of the accused person, namely, Dilip Chakraborty revealed that he brought the said capsules from Kolkata and accordingly, he exhibited the capsules as Material Exhibit-1 and also exhibited the F.I.R. lodged by him in connection with this case and also identified the accused persons who were present at the time of examination.

19. During his cross-examination, he admitted that he is not the Investigating Office of the case and at the time of incident, he was accompanied by his staff, namely, Constables Bishnu Sarkar & Panchanan Gogoi, one home-guard along with his driver. He stated that as per his direction, the accused- Dilip Chakraborty picked up the packets of tablets, but he admitted that the I.O. did not obtained his signature in the seizure list and he also has no knowledge as to whether the I.O. obtained the signature of other official staffs.

20. PW-7, Shri Pratim Gogoi, the I.O. of this case, testified that at about 1.30 a.m., he got the information from the PW-6 and immediately he entered the same into a General Diary as G.D. Entry No. 60, dated 04.11.2011, and as per the direction of his superior officer, he reached the place of occurrence and noticed that 2 (two) male persons along with a lady and Maruti Car was kept in the place of occurrence. Thereafter, he asked the accused- Dilip Chakraborty to open the bag in his presence and on opening the bags, he noticed several blue colour tablets and on the body of the capsules, it was written as SPM-PRX. He seized the capsules in presence of witnesses vide seizure list (Exhibit-1) where he put his signature as Exhibit-1(4). He further deposed that thereafter he collected 3 (three) samples of the capsules containing 10 capsules each and sent the same for examination to FSL, Guwahati. Apart from the capsules, he also seized the railway tickets and other articles from the possession of the accused persons.

21. In his cross-evidence, he stated that he along with A.S.I. Roma Kanta Bora did not get their body search by any independent witnesses prior to search and seizure of the accused persons. However, he denied when it was suggested that seizure lists were prepared by him in police station and signatures were obtained in the police station and also denied that the accused- Dilip Chakraborty did not did not throw the packet nor he picked up any packet from the place where he alleged to have thrown the packet.

22. The learned Special Judge, while passing the judgment relied on decision

of Hon'ble Apex Court reported in **AIR 1980 SC 873 (Hajarilal Vs. State)**, wherein, the Hon'ble Apex Court has expressed the view that if the evidence of police officer is trustworthy, there is no need to seek any corroboration and the evidence of such police officer should be treated on the same footing as the evidence of accomplice and in some particular case, considering the facts and circumstances, the Court may accept the evidence of such officers even without any corroboration if the evidence of the officer is trustworthy. Further, the learned Special Judge also relied on another decision of Hon'ble Apex Court in **State of Punjab Vs. Baldev Sing, JT**, reported in **1999 (4) SC 595**, wherein, the Hon'ble Apex Court has held that requirement of informing the accused about his right under Section 50 comes into existence only when the person of the accused is to be searched. Similar view has also been expressed by the Hon'ble Apex Court in another case reported in **(1999) 8 SCC 257 (Kalema Thumba Vs. State of Maharashtra)**. Accordingly, it has been held by the learned Special Judge that the application of Section 50 of the NDPS is not required in this case as the drugs were found in a bag carried by accused- Dilip Chakraborty and there was no need for any personal search of the accused persons. So, considering the evidence of the PWs, it has been held by the learned Special Judge that the prosecution could establish a case against the present accused/appellants along with the other accused- Dilip Chakraborty under Section 21 (C) of the NDPS Act and accordingly, convicted all the 3 (three) accused persons including the present appellants.

23. So, from the evidence of the witnesses, it is seen that PW-6 was in the

patrolling duty at the time of incident and on suspicion, he stopped the vehicle and it is alleged that one of the accused, who was sitting in the back seat of the car, had thrown a packet and it was subsequently picked up by the said accused- Dilip Chakraborty and he informed his Officer-In-Charge (PW-7), who immediately arrived at the place of occurrence and seized the articles in presence of witnesses. Thus, it is seen that PW-6 claimed about the recovery of the contraband in his presence and as per his direction, the accused- Dilip Chakraborty picked up the packet and when it was opened in his presence, it was found that some SPM-PRX capsules were packed inside the polythene packet. But, surprisingly, the I.O. did not asked the PW-6 to put his signature over the seized packet of samples nor he put his signature on the seizure list and he also has no knowledge as to whether the I.O. took the signatures of the other staff who accompanied him in his patrolling duty and who was present at the time of incident. Thus, it is seen that though he claimed to be the recovery officer, but his signature is neither in the seizure list nor he make any statement that his signatures were obtained in the sample packets of the contraband.

24. It is a settled position of law that the testimony of the official witnesses cannot be rejected on the ground of non-corroboration by the independent witnesses [**Rizwan Khan Vs. state of Chhatisgarh (2020) 9 SCC 67**].

25. But, here in the instant case, as discussed above, it is seen that the PW-6, who is the vital official witness of the entire prosecution case, has not put his signature neither in the seizure list nor in the sample packets of the seized

contrabands, though he claimed himself to be the recovery officer. Thus, it is seen that from his sole testimony, it cannot be held that the contrabands were seized in his presence from the conscious possession of the present appellants. It is very surprising as to why the I.O. did not take the signature of the PW-6, though it is claimed that the entire process of recovery and seizure was completed in presence of PW-6. More so, it seen that 2-3 staffs were also accompanied the PW-6 to the place of occurrence and the entire process was also completed in presence of those staffs, who were present along with the PW-6 in the patrolling duty. But none of the official staffs were made as seizure witnesses nor there was any evidence that they put their signatures in the seizure list or sample packet.

26. Further, the PWs-3 & 4 are stated to be seizure witnesses, but neither PW-2 nor PW-3 have seen the recovery of the contraband from the exclusive possession of the accused appellants and they were also not present at the time of seizure. From their evidence, it reveals that they put their signatures in the police station and they were shown some capsules in the Police Out-Post and accordingly, as per instruction of police officer, both PWs- 3 & 4 had put their signatures in the seizure list. However they do not have any personal knowledge regarding the recovery and seizure of the contraband from the possession of the accused persons. Thus, the PWs- 3 & 4, the independent witnesses, also did not support the prosecution case and even after declaring them hostile, the prosecution could not extract anything from these 2 (two) witnesses.

27. Though it is claimed by the PW-7 that he informed his superior officer, but the documents could be produced by the PW-7 that there was a total compliance of Section 42 of the NDPS Act and he was authorized by the superior officer to conduct the search and seizure.

28. Coming to the compliance of Section 52 of the NDPS Act, it is seen that there is no evidence that the seized articles were immediately produced before the Magistrate concerned nor there is any evidence that any inventory was prepared by the I.O. after the seizure of the contrabands. Further there is no evidence that the contrabands were immediately sent for FSL examination without any delay nor there is any evidence that the seized articles were safely kept in Malkhana till those were sent for FSL examination. Thus, it is seen that the prosecution did not comply with the provision of Section 52-A of the NDPS Act, which is for disposal of the seized narcotic drugs and psychotropic substance. As per Section 52-A(2) of the NDPS Act, it is also required that the certification of the seized samples regarding correctness of the samples drawn by the I.O. and inventory is also to be certified regarding the correctness by the Magistrate concerned. But, here in the instant case, it is seen that there is no evidence at all wherefrom it can be held that there was a compliance of Section 52-A of the NDPS Act.

29. For ready reference, Section 52-A Sub-Section 2, 3 & 4 of the NDPS Act is extracted hereinbelow:

“52A. Disposal of seized narcotic drugs and psychotropic substances.

...

(2) Where any narcotic drug or psychotropic substance has been seized and forwarded to the officer-in-charge of the nearest police station or to the officer empowered under section 53, the officer referred to in sub-section (1) shall prepare an inventory of such narcotic drugs or psychotropic substances containing such details relating to their description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the narcotic drugs or psychotropic substances or the packing in which they are packed, country of origin and other particulars as the officer referred to in sub-section (1) may consider relevant to the identity of the narcotic drugs or psychotropic substances in any proceedings under this Act and make an application, to any Magistrate for the purpose of

(a) certifying the correctness of the inventory so prepared; or

(b) taking, in the presence of such Magistrate, photographs of such drugs or substances and certifying such photographs as true; or

(c) allowing to draw representative samples of such drugs or substances, in the presence of such Magistrate and certifying the correctness of any list of samples so drawn.

(3) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application.

(4) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872) or the Code of Criminal Procedure, 1973 (2 of 1974), every court trying an offence under this Act, shall treat the inventory, the photographs of narcotic drugs or psychotropic substances and any list of samples drawn under sub-section (2) and certified by the Magistrate, as primary evidence in respect of such offence.”

30. But, here in the instant case, it is seen that there is total non-compliance of Section 52-A and there is no evidence at all that the I.O. prepared the inventory in regards to the seized contrabands nor there is any evidence that there was a certificate issued by the concerned Magistrate regarding the correctness of inventory as well as the correctness of the list of the samples drawn from the contrabands.

31. Sub-section (2) of Section 52A of the NDPS Act mandates a competent officer to prepare an inventory of such narcotic drugs with adequate particulars. This has to be followed through an appropriate application to the Magistrate concerned for the purpose of certifying the correctness of inventory, taking relevant photographs in his presence and certifying them as true or taking drawal of samples in his presence with due certification. Such an application can be filed for anyone of the aforesaid three purposes. The objective behind this provision is to have an element of supervision by the magistrate over the disposal of seized contraband. Such inventories, photographs and list of samples drawn with certification by Magistrates would constitute as a primary evidence. Therefore, when there is non-compliance of Section 52A of the NDPS Act, where a certification of a magistrate is lacking any inventory, photograph or list of samples would not constitute primary evidence. **[Criminal Appeal No. 1651 of 2023 (Mangilal Vs. the State of Madhya Pradesh)]**

32. As per the guideline of the Hon'ble Apex Court in case of **Union of India Vs. Mohanlal & Anr.**, reported in **(2016) 3 SCC 379**, it is observed that the officer concerned should approach the Magistrate with an application under Section 52-A Sub-Section 2 of the Act which shall be allowed by the Magistrate as soon as may be required under sub-section (3) of the Section 52-A of the NDPS Act. It is also provided that the sampling should be done in presence of Magistrate and it should immediately be brought before the Magistrate for sampling.

33. As per Section 54 of the NDPS Act, presumption can be taken that the accused has committed the offence under this Act unless and until the contrary is proved and provides a reverse burden of prove upon the accused. But, here in the instant case, it is seen that the prosecution failed to establish the foundational fact to establish the case against the accused persons in regards to commission of the offence to shift the burden to the accused to prove their innocence. In the case of **Saulat Rasool (supra)**, as cited by the learned counsel for the appellants, this Court, considering the judgment passed by the Hon'ble Supreme Court in **Gorakh Nath Prasad Vs. State of Bihar, (2018) 2 SCC 305**, has held in paragraph 17 of the judgment that "*a reverse burden of proof lies upon the accused, contrary to the normal rule of criminal jurisprudence for presumption of innocence unless proved guilty. However, this rule shall not dispense with the requirement of the prosecution to having first establish a prima facie case, only whereafter the burden will shift to the accused.*"

34. So, considering the entire discussions made above, it is seen that the prosecution case suffers from material procedural irregularity and there is total non-compliance of Sections 42 & 52-A of the NDPS Act. Further it is seen that the independent witnesses/seizure witnesses also did not support the case of the prosecution that the contrabands were recovered from the conscious possession of the accused appellants. In the same time, it is seen that the most vital/material witness of the prosecution, i.e. the PW-6, who claimed himself to

be the recovery officer, also did not put his signature in the seizure list nor there is any evidence that he put his signature on the sample packets of the contrabands. Thus, it is seen that the prosecution also failed to discharge the initial burden of proof regarding the conscious possession of the contrabands by the accused appellants beyond reasonable doubt and hence, in such a situation, the reverse burden does not lie upon the accused appellants to prove their innocence.

35. In the result, the appeal is allowed. The judgment and order dated 17.12.2012, passed by the learned Special Judge, Jorhat, in Special Case No. 04/2011, convicting the appellants under Section 21(C) of the NDPS Act, stands set aside. The appellants are acquitted of all the charges. Bond, if any, shall stand discharged.

36. However, it is submitted by the learned counsel for the appellants, during argument of this case, that both the accused/appellants have already been released from the jail hazot on completion of the terms of their sentences. The appellant- Shyamal Das was admitted in Jorhat Central Jail on 17.12.2012 in connection with this case and he was stated to be released from jail on 04.08.2020. The other appellant- Anowara Begum was subsequently transferred to the Central Jail, Nagaon, on 18.07.2013 and as per report of the Central Jail, Nagaon, she has also been released from jail on 12.06.2020 after expiry of period of sentence.

- 37.** Send back the case record along with a copy of this judgment and order.
- 38.** A copy of this judgment and order may also be sent to the concerned jail authorities.

JUDGE

Comparing Assistant