

GAHC010025512023



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

Case No. : Crl.Rev.P./55/2023

MD. REYAJ ALI
S/O- MD. YUSHUP ALI, R/O- KSHETRI BENGON, YANGBI MAKHA LEIKAI,
P.O. AND P.S. POROMPAT, DIST. IMPHAL, EAST MANIPUR.

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE P.P., ASSAM

2:S.I. SANAT KR. MUDOI
DOKMOKA POLICE STATION
KARBI ANGLONG
ASSAM
PIN- 782481

Advocate for the Petitioner : MR. D BARUAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 19-04-2023

Heard Mr. D Baruah, learned counsel for the petitioner, Md. Reyaj Ali. Also heard Mr. K.K. Parashar, learned Addl. PP, appearing for the respondent No.1.

2. The petitioner has filed an application under section 401/397 Cr.P.C., read with section 482 Cr.P.C., praying for revision of the order dated 11.01.2023 passed by the learned CJM, Karbi Anglong in Dokmoka PS Case No.25/2022 under sections 379/411/414 IPC, whereby the learned CJM Karbi Anglong rejected the prayer for granting zimma of 660 bags of Topcem Cement to the custody of the petitioner.

3. The bags of cements were seized in connection with this case when the driver was caught red handed, who kept concealed 105 empty gas cylinders amongst the bag of cement. These goods were transported through the truck bearing registration No.AS 03 AC 4777. The truck was proceeding from Doboka towards Manipur and was stopped by the police near Dokmoka police station on 21.12.2022 at about 9.30 PM. The petitioner is the special Power of Attorney holder who filed zimma petition and he is the attorney holder relating to all the activities regarding the 660 bags of cement as appointed by Sri Wahengbam Lakshmikanta Singh, who is the proprietor of LB Steel House, consignee of the cement bags. The Power of Attorney is marked as Annexure – 1 and is tagged along with the petition.

4. It is submitted that the petitioner is not involved with the incident. The main accused has already been arrested and enlarged on bail. The bail order is marked as Annexure – 5. The forwarding report of the main accused i.e., the driver of the aforementioned truck is marked as annexure – 3. The tax invoices are marked as annexure – 6 series which clearly reveals that the shipment of 660 bags of cement weighed 13000 metric tons and 20000 metric tons were to be

delivered to the consignee. The cement was seized in connection with this case and it is lying in the Dokmoka PS. It is submitted that shelf life of cement extends only up to 8 months and the bags of cement are lying unattended and uncared in the police station from 21.12.2022 till date.

5. The other accused, the handyman of the truck was also released on bail by the Eleka Magistrate. The petitioner has prayed for zimma of the bags of cement as he is representing the consignee of the bags of cement which is kept lying in the police station.

6. I have considered the submissions at the bar with circumspection.

7. The learned Addl. PP has submitted a report from the IO dated 28.02.2023 which clearly reveals that the IO has objection against the handing over of the bags of cement in zimma as the case is at the initial stage of investigation.

8. I have considered the fact that the report was submitted by the I.O on 28.02.2023. Investigation may have presumably progressed to a considerable extent by now.

9. I have considered the documents and have scrutinized the same which are marked as Annexure – 6 series. I have considered the fact that the co accused have already been enlarged on bail. The cement seized by the police may get damaged.

10. In view of my foregoing discussions, I deem it expedient to direct the learned CJM to pass an appropriate order for zimma of the bags of cement to the petitioner after proper verification of

documents. The learned CJM may also impose appropriate condition as he/she may deem it fit and proper.

11. In terms of the above, the instant petition stands disposed of.

12. The impugned order dated 11.01.2023 is hereby set aside.

JUDGE

Comparing Assistant