

GAHC010090262023



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

Case No. : Crl.Rev.P./170/2023

IMAN ALI
S/O LATE ISMAIL,
R/O VILL- BHOGAMUR,
P.S. SAMAGURI
DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MS. G BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

05.06.2023

Heard Ms G Borah, learned counsel for the petitioner and Mr P Borthakur, learned Additional Public Prosecutor for the State of Assam.

2. This is an application filed by the petitioner, Iman Ali, under Section 397/401 CrPC, read with Section 482 CrPC, praying for recalling/cancelling as well as quashing of the impugned order dated 27.03.2023, in connection with PRC Case No. 27 of 2023,

registered under Sections 379/411 IPC, read with Section 11 (1) (a) (d) of the Prevention of Cruelty to Animal Act, 1960, read with Section 13 (1) of the Assam Cattle Preservation Act, 2021, passed by the learned SDJM, Bokakhat, rejecting the zimma of the seized vehicle, i.e., AS-02CC-8834 in favour of the petitioner.

3. The brief facts of the case is that on 20.12.2022, when 25 (Twenty Five) numbers of cattle were being illegally transported from Numaligarh towards Nagaon, in the vehicle bearing No. AS-02CC-8834 in a cruel manner, the SI of Police of Bokakhat Police Station, along with another ASI, on receipt of secret information, intercepted the aforesaid vehicle and seized the said vehicle along with the cattle.

4. It is submitted by the learned counsel for the petitioner that the petitioner is the registered owner of the seized vehicle and he is no way connected in this case, except the fact that his vehicle has been hired by the accused persons, saying him that his vehicle is required to transport the cattle from a registered animal market for the purpose of selling, but the investigating agency has seized the vehicle of the petitioner without any reason.

5. It is further submitted by the learned counsel for the petitioner that after filing of the charge sheet, the petitioner being the registered owner filed a petition before the learned SDJM, Bokakhat, praying for allowing him to take zimma of the seized vehicle, but unfortunately, the prayer of the petitioner was rejected on the ground that the Investigating Officer had issued attachment order against the aforesaid vehicle under the Assam Cattle Preservation (Amendment) Act, 2021.

6. According to the learned counsel for the petitioner, as the petitioner has lost his registration certificate in connection with the aforesaid vehicle, so he has obtained a copy of Permit from the State Regional Transport Authority, Nagaon, Assam, wherein the name of petitioner and the registration number of the said vehicle have been reflected.

7. It is also the submission of the learned counsel for the petitioner that the vehicle is lying in the Police Station for a long time in an open sky, as a result of which, the vehicle has become damaged and the Court has to consider the matter also.

8. In support of her submissions, the learned counsel for the petitioner has relied upon the following case law:-

Sunderbhai Ambalal Desai –Vs- State of Gujarat; AIR 2003 SC 638.

9. On the other hand, the learned Additional Public Prosecutor submits that no confiscation proceeding is pending against the vehicle bearing No. AS-02CC-8834. The learned Additional Public Prosecutor has submitted that 25 (twenty-five) numbers of cattle were being illegally transported from Numaligarh towards Nagaon, in the said vehicle in a cruel manner. However, he submits that as the charge sheet has been submitted, the petitioner may approach before the learned trial Court for taking zimma of the vehicle.

10. I have considered the submissions made by the learned counsel for both the parties. I have also gone through the documents which are available in the record.

11. In view of the above, this criminal petition stands disposed of with a direction to the petitioner to appear before the learned trial Court, along with all the relevant documents of the seized vehicle, bearing No. AS-02CC-8834, regarding ownership of the vehicle and the learned trial Court shall consider the prayer of zimma of the vehicle on proper verification of the documents and as per provision of law.

JUDGE

Comparing Assistant