

GAHC010129862023



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

**Case No. : Crl.Pet./624/2023**

M/S OM SAI TRADING COMPANY AND ANR  
A PROPRIETORSHIP CONCERN HAVING ITS OFFICE SITUATED AT THANA  
ROAD, RUPAHI, P.O. AND P.S. RUPAHI, DISTRICT- NAGAON, ASSAM, REP.  
BY ITS PROPRIETOR SRI DINANATH SHIVAKARAN MAURYA, AGED  
ABOUT 60 YEARS, SON OF LATE SHIVAKARAN MAURA HAVING HIS  
OFFICE SITUATED AT THANA ROAD, RUPAHI, P.O. AND P.S. RUPAHI, DIST.  
NAGAON, ASSAM

2: M/S S.N. TRADING COMPANY  
A PARTNERSHIP CONCERN HAVING ITS REGISTERED OFFICE SITUATED  
AT WARD NO. 9  
ROAD  
NO. 5  
S.C. ROAD  
ATHGAON  
GUWAHATI  
KAMRUP  
ASSAM AND REP. BY ONE OF ITS PARTNERS SRI PRADEEP MAURYA  
SON OF SRINATH MAURYA HAVING HIS OFFICE SITUATED AT WARD NO.  
9  
ROAD  
NO. 5  
S.C. ROAD  
ATHGAON  
GUWAHATI  
KAMRUP  
ASSA

VERSUS

THE STATE OF ASSAM AND ANR  
REP. BY LD. PP, ASSAM

2:SRI UPANANDA KALITA

A.S.I.

NORTH GUWAHATI POLICE OUT POST  
NORTH GUWAHATI  
DIST. KAMRUP  
ASSAM  
PIN-78103

**Advocate for the Petitioner** : MR. M A SHEIKH

**Advocate for the Respondent** : PP, ASSAM

**BEFORE**  
**HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

**ORDER**

**27.06.2023**

Heard Mr. M.A. Sheikh, learned counsel for the petitioners. Also heard Mr. D.P. Goswami, learned Addl. P.P., Assam appearing for the State respondent.

2. By this petition under Section 482 Cr.P.C., the petitioners have prayed for partial modification of the impugned Judgment and Order, dated 30.08.2022, passed by the learned Addl. Sessions Judge, Kamrup, Amingaon in Criminal Revision Case No.42/2022 by removing the condition of Bank Guarantee as well as to allow zimma of the seized articles to them on the basis of execution of Indemnity Bond.

3. The brief facts of the case are that on 10.02.2022, two numbers of trucks bearing registration No. AS 25 CC 7714 (loaded with 350 bags of dried areca nuts of the petitioner No.1) and MH 28AA 5354 (loaded with 397 bags of dried areca nuts of the petitioner No.2) were seized by police while the said trucks were getting ready for its transportation from the godown at Amingaon to Karnataka. In connection with this, Changsari P.S. Case No.77/2022 under Sections 120B/379/411/465/468/471 of the IPC was registered. Subsequently, the seized trucks were burnt down due to unknown

reasons damaging the areca nuts loaded therein to some extent, upon which Changsari P.S. Case No.78/22 u/s 436/427/201/34 of the IPC was registered.

4. Mr. M.A. Sheikh, learned counsel for the petitioners, submits that the Petitioner No.1 is the Proprietorship Firm dealing in trading of dried areca nuts (Supari) having its principal place of business at Rupahi, Assam with other additional 24 places of business throughout Assam and it has been dealing with its business lawfully by obtaining GST Registration No. 18AEKPM555511ZZ since the year 2017. The Petitioner No.1 has also obtained the necessary Trade License from Rupahi Gaon Panchayat for the year 2021- 2022. Mr. Sheikh also submits that, Petitioner No. 2 is a partnership Firm dealing in the same business as that of the Petitioner No.1 having its principal place of business situated at Athgaon, Guwahati, Assam. The Petitioner No. 2 has been carrying its business by obtaining valid requisite documents like Trade License from Guwahati Municipal Corporation, GST Registration No.18ACMPSS7718K12D, PAN No. etc.

5. Mr. Sheikh submits that, the petitioner No.1 is the owner of the 350 bags (24,500 Kgs.) of dried areca nuts worth Rs.47,22,375/- loaded in truck No. AS25-CC-7714 at its godown situated at Amingaon (Brahmaputra Industrial Estate) to dispatch the same to Balaji Trading Company, Alipur, Delhi through transporter Ajay Goods Carrier vide Annexure No.9, Tax Invoice No. OSTC/21-22/90 dated 10.02.2022 with e-way bill No.821206746842, dated 10.02.2022 and consignment note No.0505, dated 10.02.2022 and the Petitioner No.2 is the owner of the seized 397 bags (27.790 kgs.) of supari worth Rs.49,65,480/- loaded in truck No. MH18-AA-5354 to dispatch the same to KGN Traders, Karnataka through transporter Nagpur Assam Roadlines vide Annexure-11, Tax invoice No. SNTA/21-22/97, dated 10.02.2022 with e-way bill No. 801206726819, dated 10.02.2022 and consignment note, dated 10.02.2022.

6. Mr. Sheikh also submits that vide the impugned Judgment and Order, dated 30.08.2022, passed by the learned Addl. Sessions Judge, Kamrup, Amingaon in

Criminal Revision Case No.42/2022, the learned Court below while giving zimma of the seized goods (supari) to the petitioners, has directed the petitioners to give Bank Guarantees of Rs.47,22,375/- and Rs.49,65,480/- respectively, which are huge amounts for the petitioners. Therefore, Mr. Sheikh submits that for the ends of justice the impugned Judgment and Order, dated 30.08.2022 may be modified by removing the condition of Bank Guarantee and the petitioners may be allowed to take zimma of the seized goods on execution of Indemnity Bonds.

7. Upon hearing the learned counsel for both sides and considering the grounds cited in the petition along with the documents annexed thereto, it is provided that the petitioners shall furnish Indemnity Bond of equal value as determined by the learned Court below in its order, dated 30.08.2022, passed in Criminal Revision Case No.42/2022 instead of the Bank Guarantees. The petitioner shall however mention their Bank Account numbers enclosing therewith the initial relevant pages of such Bank Passbooks. In lieu thereof, land documents may also be furnished and the same shall be mentioned in the Indemnity Bond.

With the above directions, the criminal petition stands disposed of.

**JUDGE**

**Comparing Assistant**