

GAHC010186652021



In the Gauhati High Court

(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

Cri. APPI. No. 186/2021

DebojitGogoi

S/O KunjaGogoi, R/O Jyotinagar P.S. And Dist. Golaghat, Assam

..... **Appellant**

VERSUS

The State Of Assam And Anr.

Rep. By The Pp, Assam

2:NarendraNathBarik

S/O Lt. Deben Barik

Si OfGolaghat Police Station

R/O Jorhat

P.S. Jorhat

Assam

..... **Respondents**

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

Advocate for the Appellant : Mr.R.J. Das, Advocate

Advocate for the Respondent : Ms. A. Begum,learned Addl. P.P.

Date of Hearing : **25.07.2023**

Date of Judgment : **29.11.2023**

JUDGMENT & ORDER (CAV)

1. Heard Mr.R.J. Das, learned counsel appearing for the petitioner. Also heard Ms. A. Begum, the learned Additional Public Prosecutor representing the State of Assam.
2. This is an appeal under Section 374(2) of the Code of Criminal Procedure, 1973 (Cr.P.C. for short) challenging the Judgment and Order dated 04.10.2021 passed by the learned Sessions Judge, Golaghat in connection with Spl. (N.D.P.S) Case No. 08/2019, convicting Sri DebojitGogoi (herein after referred to as the accused) under Section 20(b) (ii) (C) of the Narcotics and Psychotropic Substances, Act, 1985 (NDPS Act for short) and sentencing him to undergo rigorous imprisonment for 10(ten) years and a fine of Rs. 1,00,000/- with default stipulation.
3. The genesis of the case was that on 01.04.2019 at about 8.45 A.M., on the basis of a tip off and on the approval of the Superintendent of Police, (SP for short), Golaghat, Sri NarendranathBarik, TSI of Golaghat P.S. (hereinafter the informant) conducted a search of a vehicle bearing registration No. AS-01-AU-

8094, a Bolero, at the premises of the rented house of the accused at Jyotinagar and recovered 92 Kgs of suspected 'cannabis' from the secret chamber of the Bolero vehicle. The informant seized the recovered cannabis in presence of the witnesses, and at the spot the informant collected 2 (two) samples of 24 gms. each from the bulk, for forwarding the same to the Directorate of Forensic Science (DFS for short) for chemical examination. The informant thereafter, arrested the accused, as per Section 41 of Cr.P.C and forwarded him to the Court. The seizure list was also produced before the Court and thereafter, the samples were forwarded to the DFS.

4. On 18.05.2019, an ejahar was lodged by the informant, which was registered by the O/C of Golaghat P.S. as Golaghat P.S. Case No. 539/2019, under Section 20(C) of the NDPS Act and the O/C embarked upon the investigation. He visited the place of occurrence and recorded the statement of the witnesses. He prepared the sketch-map and on completion of investigation submitted charge-sheet against the accused under Section 20(C) of the NDPS Act.

5. During trial, a formal charge was framed under Section 20(b)(ii)(c) of the NDPS Act and the accused absorbed his guilt and claimed innocence to connect the accused to the crime. The prosecution adduced the evidence of 8 (eight)

witnesses and the defence cross-examined the witnesses to refute the charges. On the incriminating materials projected against the accused, several questions were asked to the accused under Section 313 Cr.P.C. and his responses were recorded. The learned trial court delineated the following points to decide the case:-

“Whether the accused on 01.04.2019, at about 8-45 A.M., at Jyoti Nagar, Golaghat, under Golaghat Police Station, District - Golaghat, possessed 92 Kg. of ganja in his Bolero vehicle bearing registration No. AS-01-AU-8094 in contravention of the NDPS Act and Rules made thereunder, and thereby, committed an offence punishable under Section 20(b)(ii)(c) of NDPS Act as alleged?”

30. *Thus, from the evidence of the witnesses, particularly P.W.1, P.W.2, P.W.3 and P.W.4, it is crystal clear that accused was the driver and in possession of the seized Bolero vehicle bearing registration No. AS-01-AU-8094, at the relevant time and he parked the said vehicle in front of his house. It is also in the evidence of independent witness ShriNakulSaikia (P.W.2) that accused handed over the keys of the vehicle to police and police found 92 Kgs of ganja, contained in packets, kept in different chambers under seat, chassis etc. of the said vehicle.*

32. *It is true that police could not find the owner of the vehicle, namely Prodip Ali of Tirual, Furkating but the fact remains that it was the accused, who had controlled in possession of the vehicle, in as much as, it was the accused, who handed over the key of the vehicle, to police as per evidence given by the independent witness (P.W.2). There is no evidence on record that this independent witness or any other prosecution witness had any*

enmity towards the accused to falsely implicate him, in this case.

43. *From the evidence of P.W.5, i.e. search and seizing officer of this case, it is seen that he collected the samples from the recovered seized packets of ganja in presence of witnesses. It is also in his evidence that he sent the seized samples to the Forensic Science Laboratory, Kahilipara, Guwahati on the same date of seizure, i.e. 01.04.2019. The seizure list clearly shows that it was prepared on 01.04.2019, at about 8-45 A.M. and the same was sent to the Forensic Science Laboratory, Kahilipara, Guwahati, at about 6 P.M., as per evidence of P.W.5. Further, P.W.5 denied defence suggestion that he kept the sealed packets in his custody and not in the custody of Police Station. The seizing officer, of course, could not produce the relevant entry of Malkhana Register of his Police Station, but he affirmed that M.R. Number was given in the seizure list, Hence, I find no reason to disbelieve the evidence of police officer (P.W.5) regarding keeping of sample, in safe custody till it was sent to FSL for examination, on the date of seizure itself.*

44. *There is no material on record to show that P.W.5 had any animosity with the accused. Therefore, the P.W.5 being public officer having conducted the search and seizure, as per law, there was rather a presumption in favour of genuineness of his official act under Section 114, illustration (e) of the Evidence Act.*

6. Learned Counsel for the appellate laid stress in his argument that the secret chambers found in the vehicle of Bolero make bearing registration No. AS-01-AU-8094 was found by the police during investigation without being led

by the accused. The colour of the vehicle mentioned by one witness was white and on the contrary, the police stated that the vehicle was black in colour. The owner of the vehicle was not made either an accused or a witness. The petitioner was a driver of the vehicle and not owner of the vehicle. The accused was not at all aware of the secret chamber of the vehicle. Being a driver he was plying the vehicle, but he was not wary that Ganja was being transported through his vehicle. The samples were not drawn as per proper procedure as the statements of the witness reveal that 50 grams of samples were drawn, which is not according to the standing order 1/89. The seizure was conducted in a slip shod manner and only two samples out of 92 packets were drawn. The deposition of the witnesses clearly reflects that Section 42 of the act was not complied with. Investigation had already commenced and the FIR was lodged after a prolonged period. The time mentioned in the FIR is not similar to the time given by the witnesses. A Close scrutiny of the evidence will reveal that even Prodip Ali is not the registered owner of the vehicle. The edifice of a prosecution case relating to NDPS Act that is conscious position was not proved.

7. It is submitted by the learned counsel for the accused that physical possession of the cannabis in conjunction with the control over the contraband has to be proved, and has relied on the decision of Hon'ble the Supreme Court in ***Mohan Lal Vs. State of Rajasthan (2015) 6 SCC 222***. The leading to

discovery of the contraband has not been proved as per Section 27 of the Indian Evidence Act, 1872,(the Evidence Act for short). The learned counsel for the accused has also relied on the decision of this court in ***Malber Khan &Anr. Vs. State of Assam &Anr.2023 (2) GLT 883***.It is vehemently and fervently submitted that the trial court extracted only that part of the Judgment in ***Malber Khan's case (supra)*** which goes against the accused. The perpetrator of the crime has not been brought to book and an innocent person has been roped in connection with this case.

8. Per contra, the learned Addl. P.P. laid stress in his argument that only one witness has stated that the accused drives various vehicles. Conscious possession has been proved beyond a reasonable doubt. It has been proved that the accused was driving the vehicle and was transporting huge amount of ganja. The learned Addl. P.P. has supported the decision of the trial court and has prayed to dismiss the appeal.

9. To decide this case, in its proper perspective, the evidence is reappraised. The landlord of the house, where the accused was residing as a tenant, NandeswarGogoi, deposed as PW-1 that the incident occurred on 01.04.2019. At about 6.00 A.M., the police came to the accused person's house and asked the accused to open the door of the Bolero vehicle. The vehicle was parked inside

the premises of his house. After opening the door of the vehicle, the police found some packets of 'ganja' inside the vehicle and seized the same, after weighing the ganja. He gave his signature on the seizure list and proved his signature as Exhibit-1(1) on the seizure list marked as Exhibit-1. He proved his signature on the seizure list relating to the seizure of the Bolero as Exhibit-2 (1).

10. In his cross examination, PW-1 deposed that the vehicle was parked on the gateway of the accused person's house. He could not recall the number of packets found by the police inside the vehicle. He also did not see the police weighing the ganja and he did not know what was written on the seizure list. He heard from the police that the seized packets contained ganja and he has given his evidence, as per the version of the police. The Bolero was white in colour and he did not know if some other person brought the Bolero and parked the same at the spot. He did not see the Bolero being unlocked with the key. He also did not witness the police sealing the packets of ganja. The police did not show any identification mark after showing him the packets.

11. A neighbour Sri Nakul Saikia deposed as PW-2 that the incident occurred in the month of April in the year, 2009. When, he woke up in the morning, he saw the police who came to his house and called him. The police also called the accused and asked the accused to open the door of the Bolero which was

parked on the gateway. The accused gave the keys of the Bolero vehicle to the police and he returned to his house. After some time, the police called the accused and told him that they found some packets of ganja in the vehicle. The police took one weighing machine and weighed the ganja. The police seized the ganja and the Bolero vehicle, and took his signature on the seizure list. He proved his signature relating to seizure of the weighing machine as Exhibit-1(2) and his signature relating to the seizure of the ganja and the Bolero as Exhibit-2(2). He identified the seized ganja as material Exhibit-1.

12. In his cross examination, PW-2 deposed that he did not know how much ganja was recovered by the police from the vehicle. He did not witness sealing of the packets of ganja. He has stated that the said packets contained ganja as per version of the police. He did not know the owner of the vehicle.

13. Thus, it is apparent from the evidence of PW-1 and PW-2 that ganja was seized from the Bolero bearing registration No. AS-01-AU-8094. The learned counsel for the accused laid stress in his argument that it is also apparent from the evidence of PW-2 that the accused handed over the keys of the Bolero and walked away, while the police examined the Bolero and recovered the ganja. The accused was not aware of the secret chamber and he did not know where the ganja was kept and there is no leading to discovery of ganja. The absence

of disclosure statement proves that the accused did not show where the ganja was kept, but the police themselves discovered the place where the ganja was kept concealed. Although PW-2 has identified the 'ganja' as Material Exhibit-1, yet his evidence that he did not know that the seized article was ganja fails to prove the seizure lists.

14. PWs-1 and 2 have deposed in their cross-examinations that they came to know about the seized ganja as the Police told them that the seized article was ganja. Although they identified the signatures in the seizure lists, Exhibits- 1 and 2, they have not supported the seizure of the ganja as they have stated that they did not know that the seized article was ganja.

15. PW-3, DipakDey deposed that in the month of April, 2019, at about 07:00 am, the Police came to his shop and seized his weighing machine. He saw a Bolero vehicle at the place of occurrence and the Police found 92 kgs of ganja and he weighed the ganja. The Police also apprehended the accused. He too identified his signature on the Seizure List as Exhibit-1(3), but he stated that he did not see the ganja in the Court. Thus, PW-3 too failed to prove the seizure of ganja.

16. MoheswarSonowal deposed as PW-4 that the accused was the tenant of NandeswarGogoi (PW-1). The incident occurred on 01.04.2019. At about 07:00

am, the Police came to his house and called him to the house of the accused. The Police showed him ganja like substance, which was found in the Bolero vehicle, which was parked on the public road. The accused was the driver of the Bolero vehicle. In his cross-examination, PW-4 stated that he did not know, who was the owner of the Bolero vehicle and where the ganja was kept inside the vehicle. He had never seen the accused driving the vehicle. The accused used to drive vehicles of other persons. Thus, the evidence of PW-4 does not support the prosecution's contention that the accused was in conscious possession of ganja.

17. The learned counsel for the accused laid stress in his argument that the evidence of PW-3 and PW-4 does not at all implicate that the accused kept the ganja inside the Bolero vehicle. Both the witnesses, PW-3 and PW-4 are well acquainted with the accused, but PW-4 never saw the accused driving the Bolero vehicle, although PW-4 had seen the accused driving other vehicles, belonging to other owners. This argument of the learned counsel holds no water. The evidence of PW-3 clearly depicts that the weighing machine from his shop was taken to weigh the ganja and his evidence clearly proved that 92 kgs of ganja was weighed by him, at the time of the incident. The evidence of PW-3 and PW-4, so far as the recovery of ganja is relevant. PW-4 may have not seen the secret chamber under which, the ganja was concealed, but he has

categorically stated that the ganja was kept inside the Bolero vehicle. The argument of the learned counsel for the accused that the PW-1 and PW-2 have stated that the Bolero was parked on the gateway, is contrary to the evidence of PW-4, who stated that the Bolero was parked on the public road.

18. PW-5, ShriNarendraNathBarik deposed that from 01.04.2019, he was posted at Golaghat Police Station as TSI. On that day, he received an information that one black coloured Bolero car had entered at Jyoti Nagar, under the Golaghat Police Station, containing suspected ganja allegedly transported from Tripura. Then, he entered the information as GD Entry No. 935, dated 01.04.2019. He informed the SP, Golaghat, who guided him to the spot. He proved the extract copy of the GD Entry as Exhibit-3 and Exhibit-3 (1) as his signature. PW-5 further deposed that on reaching the spot, he found one black coloured Bolero vehicle, bearing Registration No. AS01-AU-8094 and the vehicle was kept in the campus of NandeswarGogoi. He came to know that the driver of the vehicle was the present accused and the owner was Prodip Ali of Tiruwal, Furkating. The accused was a tenant of NandeswarGogoi (PW-1). He found the accused in his house and he called the witnesses and searched the vehicle. He found 92 kgs of suspected ganja inside a chamber made inside the Bolero vehicle. The chamber was made under the seat. Vide Exhibit-1, he seized one weighing machine (Dogapalla) and he proved his signature on the Seizure List

as Exhibit-1 (4). He seized the recovered ganja along with the Bolero vehicle vide Exhibit-2 and he proved his signature on the Exhibit-2 as Exhibit – 2 (3). He proved and identified the seized ganja in the Court as material Exhibit-1.

19. PW-5 further deposed that he brought the accused along with the seized articles to the Police Station. He also prepared the sketch map of the PO. He proved the sketch map of the PO as Exhibit-4 and his signature on the sketch map as Exhibit – 4 (1). He further stated that there were 92 packets of suspected ganja and he drew samples of 24 gms. of ganja from two packets in the PO itself in presence of witnesses. He forwarded the seized samples to the DFS, Kahilipara, through the SP, Golaghat, for chemical examination. He got the report of the chemical examination on 18.05.2019, which was a positive report of ganja. Then, he lodged the FIR with the Police at Golaghat Police Station. He proved the FIR as Exhibit-6 and Exhibit- 6 (1) as his signature. The remaining part of the investigation was conducted by SI Dipak Bora, who recorded the statements of the witnesses. He proved the written permission received from SP, Golaghat, as Exhibit-7.

20. The learned counsel for the accused submitted that PW-1 has stated that the Bolero was a white coloured vehicle, whereas the PW-5 has stated that the Bolero was a black-coloured vehicle. 92 packets of ganja were seized, but he

drew samples of 24 gms of ganja from only two packets. It was the duty of the IO to draw samples in duplicate from each packet, according to the Standing Order 1 of 1989. This argument is relevant. There was indeed a lapse in the investigation. There is no explanation if the packets were of same size and weight, which prompted the IO to draw duplicate samples of 24 gms. only. The procedure would be correct if duplicate samples from one packet is drawn as was in this case, if the other packets are of same size and weight. This has not been mentioned in the seizure list or in any other document. The other contradiction which is relevant is that PW-3 has stated that the vehicle was parked on the public road, whereas the other witnesses have stated that the vehicle was parked in the campus or the gateway. The sketch map marked as Exhibit-4 is very vague.

21. Reverting back to the evidence, PW-5 stated in his cross-examination that when he received a tip-off, he did not inform the higher authority about the information of transportation of huge cache of ganja from Tripura. He received the information from the SP, Golaghat, in writing. He has also admitted that Exhibit-7 does not contain any office seal. He has also admitted in his cross-examination that he could not record the statement of the owner of the vehicle as he could not trace out the owner. He has also admitted that he had not seen the sealed packet of ganja in the Court. He sent the seized articles to DFS on

01.04.2019, for chemical examination. The sample was drawn at 08:45 am, but he has not mentioned in his Case Diary that the sample was sent to the DFS, Kahilipara, at 6:00 pm.

22. PW-6, ShriBiswajitBaruah, deposed that the incident took place on 01.04.2019, near his house. The accused was a tenant who used to reside on the backside of his house. In the morning, he saw the accused was handcuffed and the Police opened one Bolero vehicle, which was in the campus of the accused person's house. The Police recovered 92 kgs of bhang (ganja) inside the vehicle. The articles were kept in different chambers of the vehicle. The Police brought one weighing scale and weighed the recovered ganja. He proved his signature on the seizure list as Exhibit-1 (5) and 2 (4). He identified the ganja produced in the Court as material Exhibit-1.

23. ShriDhrubaJyotiHazarika deposed as PW-7 that on 02.04.2019, he was working as Deputy Director at DFS, Assam. On that day, he received a seal parcel in connection with Golaghat PS GDE No. 935, dated 01.04.2019. The parcel consisted of one exhibit enclosed in a sealed envelope cover. The facsimile of the seal was found to be SP, Golaghat.

Description of Articles:

One sealed envelop, marked as Exhibit-A having a closed polythene packet,

containing 24 gms. dry plant material which was marked by him as DN-199/2019.

Result of Examination:

Ext.-DN-199/2019 is the test result which was positive for cannabis (ganja). He proved his report as Exhibit-5 and his signature on the report as Exhibit-5(1). His report was forwarded by the Director, Shri G N Deka. He proved the forwarding letter as Exhibit-8 and he identified the signature of Shri G N Deka as Exhibit-8(1).

24. In his cross-examination, he stated that he had not seen the packet, which was received for chemical examination, in the Court. He could not recall if there was any signature of any witness near the seal of the SP, Golaghat in the packet. He has not mentioned under what procedure, he had examined the seized articles. He has not mentioned, at what time he received the seized packet on 02.04.2019.

25. The IO, Sri Dipak Bora deposed as PW-8 that on 01.04.2019, he was posted as OC at Golaghat Police Station. On that day, at about 06:00 am, he received an information that a Bolero vehicle coming from Tripura has reached Golaghat town and the vehicle was transporting contraband articles. He registered the GD Entry No. 935, dated 01.04.2019. He proved the extract copy of GD Entry as Exhibit-3. He then entrusted SI Narendranath Barik to investigate the matter. On 18.05.2019, he received back the Case Diary from the Sub-

Inspector. He collected the forensic report of the seized articles from the DFS, Guwahati and submitted charge sheet against the present accused, being CS No. 154/2019, dated 19.05.2019, under Section 20(C) of the NDPS Act. He proved the chargesheet as Exhibit-9 and his signature on the charge sheet as Exhibit- 9(1). SI Sri NarendranathBarik lodged the FIR on 18.05.2019 and he received and registered the same as Golaghat PS Case No. 39/2019, under Section 20(C) of the NDPS Act. He proved the FIR as Exhibit-6 and his signature with endorsement as Exhibit-6(2).

26. His cross-examination is not noteworthy.

27. The core question in this case is that, whether the accused was wary that he was transporting ganja, and, whether the owner is responsible for transporting ganja? The accused tried to shift the blame to the owner of the vehicle as he feigned ignorance relating to transportation of ganja through the vehicle driven by him. It is apparent from the seizure list marked as Exhibit-2, that 92 kgs of ganja was seized from the Bolero vehicle, bearing Registration No. AS01-AU-8094. The colour of the vehicle is not mentioned in the seizure list. It has also not been described in the seizure list if there were secret chambers under the seat of the vehicle. There is no evidence that the accused led to the recovery of the ganja from the secret chamber under the seat inside the vehicle.

28. The evidence reveals that the incident occurred on 01.04.2019. There is

no evidence that Section 52(A) (2) of the NDPS Act was followed during seizure of the cannabis, which is also another lacuna in the investigation. No inventory was prepared as per Section 52(A)(2) of the NDPS Act, nor any certificate of correctness of the inventory so prepared was proved in connection this case.

29. Not a single witness including the official witnesses or the independent witnesses have stated that the accused led to the recovery of the seized ganja. The ganja (cannabis) was found in the Bolero vehicle, but the accused has pleaded innocence and he has pleaded that he was not aware that the ganja was being transported through his vehicle. The IO (PW-8) has also not stated that the accused showed him the secret chamber, where the ganja was kept concealed. No endeavour was made by the IO to find the owner of the vehicle nor was the owner made an accused or a witness in this case. When the prosecution has failed to prove the foundational facts of the case, the presumption under Section 35 of the Act does not operate against the present petitioner and the present petitioner cannot be made liable under Section 20(b) (ii)(C) of the NDPS Act. The prosecution has failed to prove conscious possession due to the discrepancies in the investigation as well in the prosecution. Presumption of culpable mental state does not operate against the accused.

30. The learned counsel for the accused appellant relied on the decision of a

Division Bench of this Court in ***Malber Khan &Anr. –vs- State of Assam &Anr.***, reported in **2023 (2) GLT 883**, wherein it has been held and observed that-

“23. Law is well settled that even in a case coming within the ambit of the NDPS Act, the prosecution would be duty bound to prove the charge beyond reasonable doubt. In the case of Noor Aga (supra) the Hon’ble Supreme Court has observed that the initial burden to prove the charge lies upon the prosecution and only when it stand satisfied that the legal burden under section 54 of the Act shift. With a view to bring within its purview the requirement of section 54 of the Act, the element of possession of the contraband has to be established so as to shift the burden on the accused. Similar view has been expressed in the case of Gangadhar@GangaramVs. State of Madhya Pradesh reported in (2020) 9 SCC 202. wherein it has been observed that the presumption against the accused of culpability under sections 35 and 54 of the Act to explain possession satisfactorily are rebuttable. It does not dispense with the obligation of the prosecution to prove the charge beyond reasonable doubt.”

31. In this case at hand, as the prosecution failed to prove beyond a reasonable doubt that the accused was in possession of the ganja, presumption of culpability under Sections 35 and 54 of the Act does not arise. The prosecution has failed to prove conscious possession of the ganja by the accused. Not a single witness has stated that the accused led to the recovery of the ganja. The seizure witnesses and the independent witnesses, PWs-1, 2, 3, 4 and 7 have not proved the seizure lists, relating to seizure of the ganja as well the Bolero vehicle. It has also been held in my foregoing discussions that the Investigating Officer failed to trace out the owner of the vehicle. The accused has denied that he was driving the vehicle seized in connection with this case. He has also denied that he handed over the keys to the Police. The prosecution

has failed to prove that the accused was the owner of the vehicle seized in connection with this case. The owner of the vehicle was neither summoned as a witness nor made an accused in this case.

32. The entire investigation and the prosecution is bristled with discrepancies as the seizure was not made as per proper procedure under Section 52 (A) (2) of the NDPS Act, nor was any inventory prepared or certificate given relating to the correctness of the inventory. The other lapse in the evidence is that the IO, PW-8 has stated in his cross-examination that he did not see the sealed sample in the Court, but he had identified the seized ganja as Material Exhibit-1. It is not even not clear from the evidence of the IO, PW-8, whether the IO had identified the sealed sample or the bulk of the ganja seized in connection with this case. The IO has also admitted that no Malkhana register was maintained in support of the safe custody of the seized article, before the article was forwarded for chemical examination.

33. It is also submitted that the IO, PW-8 has not complied with the provisions of Section 57 of the NDPS Act and no report of the particulars of arrest or seizure has been forwarded to the immediate official superior.

34. In the wake of my foregoing discussions, it is thereby held that this case is bristled with discrepancies. The evidence of the witnesses are contradictory.

The conviction under Section 20 (b) (ii) (C) of the NDPS Act is not sustainable. The impugned Judgment and Order dated 04.10.2021, passed by the learned Sessions Judge, Golaghat, convicting the accused under Section 20 (b) (ii) (C) of the NDPS Act to undergo Rigorous Imprisonment for 10 years and to pay a fine of Rs. 1,00,000/- (Rupees One Lac), is hereby set aside.

35. Appeal is allowed.

36. Send back the LCR with a copy of this Judgment and Order.

37. However, keeping in view the provisions of Section 437-A CrPC, the accused, DebojitGogoi, is directed to furnish personal bond in the sum of Rs. 50,000 (Rupees Fifty Thousand) only and assure the bond in the like amount before the learned trial court which shall be effective for a period of six months.

JUDGE

Comparing Assistant