

GAHC010201722023



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

**Case No. : I.A.(Crl.)/840/2023**

MD. MATIBUR RAHMAN  
S/O MD. ABDUL MATLIB,  
VILL.- SATLONGA,  
P.S.- KACHUA,  
DIST.- NAGAON, ASSAM, PIN- 782126.

VERSUS

PINTU GHOSH,  
S/O LATE P.C. GHOSH, R/O SARADA ASHRAM PATH, SILPUKHURI, P.S.-  
CHANDMARI, DIST.- KAMRUP (M), ASSAM, PIN- 781003.

**Advocate for the Petitioner : MR A W AMAN**

**Advocate for the Respondent : MR. K BHATTACHARJEE**

**BEFORE**  
**HONOURABLE MRS. JUSTICE MALASRI NANDI**

**ORDER**

**Date : 27-09-2023**

Heard Mr. S. Das, learned counsel for the petitioner. Also heard Mr. K. Bhattacharjee, learned counsel for the opposite party.

2. This Interlocutory Application has been preferred by the applicant for

modification/correction of the judgment and order dated 10.08.2023 passed by this Court in Criminal Revision Petition No. 482/2022.

3. The fact of the case is that the applicant had filed Criminal Revision petition No. 482/2022 under sections 397/401 CrP.C. against the concurrent findings of the guilt by challenging the impugned judgment and order dated 12.08.2022, passed by the learned Additional Sessions Judge No. 2 Kamrup (M) in Criminal Appeal No. 15/2021 upholding the conviction of the applicant in C.R. Case No. 4713<sup>c</sup>/2017.

4. In C.R. Case No. 4713<sup>c</sup>/2017 the learned trial Court convicted the applicant under section 138 of the N.I. Act and sentenced him to undergo Rigorous Imprisonment for 1 (one) year and to pay compensation amounting to Rs.38,00,000/-. On appeal, vide Criminal Appeal No. 15/2021, the learned appellate Court upheld the conviction of the applicant in CR. Case No. 4713<sup>c</sup>/2017 but modified the sentence to 6 (six) months Rigorous Imprisonment instead of 1 (one) year. But the compensation remained as same i.e Rs. 38,00,000/-

5. According to learned counsel for the applicant, this Court has dismissed the revision petition with an observation that the applicant is to surrender before the learned trial Court to serve out the sentence and for payment of the amount of compensation. And accordingly, the applicant surrendered before the learned trial Court but he was sent to jail for one year Rigorous Imprisonment instead of 6 (six) months as per order of the learned trial Court but the learned appellate Court reduced the sentence from 1 (one) year to 6 (six) months on appeal vide Criminal Appeal No. 15/2021, which has not been considered by the

learned trial Court.

6. I have considered the submission of learned counsel for the applicant. I have also perused the judgment of Criminal Revision Petition No. 482/2022.

7. As per Judgment and order dated 10.08.2023, it was specifically reflected that on hearing the learned counsels for the parties and on perusal of the evidence of all the witnesses and the documents available in the records, this Court observed that there was no scope of interference in the orders passed by the learned trial Court and the First Appellate Court. It is pertinent to say here that the judgment and order of the appellate Court has not been challenged by the opposite party i.e the claimant. Further, this Court did not set aside the order of the First Appellate Court. Resultantly, the order passed by the Appellate Court would prevail on which the leaned appellate Court reduced the sentence from 1 (one) year Rigorous imprisonment to 6 (six) months Rigorous Imprisonment. Accordingly, the applicant shall serve out the sentence of Rigorous imprisonment for 6 (six) months and not for one (1) year.

With the observations made above, the I.A. stands disposed of.

**JUDGE**

**Comparing Assistant**