

GAHC010215902023



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

Case No. : Crl.Rev.P./458/2023

MOIN UDDIN
S/O MAKARAM ALI, R/O VILL.-DEWAKURI, P.O.-LALARCHAK, P.S. AND
DIST.-KARIMGANJ, ASSAM, PIN-7883713.

VERSUS

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

2:SUB-INSPECTOR
GUMRAH P.I.C.
P.O.-GUMRAH
DIST.-KARIMGANJ
ASSAM
PIN-788815

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent :

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 17-11-2023

1. Heard Mr. M.A. Sheikh, learned counsel for the petitioner and Mr. D.P. Goswami, learned Addl. P.P., Assam for respondent State.

2. The petitioner has filed an application u/s 401 Cr.PC read with Section 397 of the Cr.PC, challenging the order of legality and propriety of the order dated 29.05.2023 filed by the learned Sub-Divisional Judicial Magistrate (Sadar), Cachar, Silchar in Petition No. 516/2023 arising out of Kalain P.S. Case No. 94/2023 whereby the zimma prayer of the petitioner was rejected.

3. The impugned order is reproduced herein below verbatim:-

Sl.No.	Date	Order	Signature
	29.05.2023	Report received as called for. Upon such perusal of the I.O.'s report along with copy of the report Food Analyst, it is found that the seized areca nut is not suitable for use for human consumption. Tag the report with the case record. Petitioner's advocate is absent. Heard Ld. APP. Considering the report, the zimma prayer is the petition no. 516/23 is rejected and disposed of. Send back the case record.	

4. It is submitted on behalf of the petitioner that the petitioner is the owner of the areca nuts.

5. The learned Addl. P.P. has submitted that report has been received from the IO which reveals that the seized areca nuts are not fit for human consumption. The petitioner has prayed for zimma of the seized areca nuts.

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

7. The impugned order was passed on 29.05.2023. By now the goods may have perished and may not be fit for human consumption, but there are other uses of the areca nuts. The

areca nuts can be used for industrial purposes also.

8. As per SOP In Clause-15, for disposal of the seized betel nuts issued by the Addl. Director General of Police CID, Assam, after verification by the SP, the seized areca nuts can be used as raw materials for manufacturing other products and the same is not required not be used for human consumption.

9. Thereby, the impugned order dated 29.05.2023 relating only to rejection of the prayer of zimma of the seized areca nuts to the custody of the petitioner is set aside. The petitioner is at liberty to submit a petition before the jurisdictional Court with prayer for zimma of the seized areca nuts with an undertaking that the seized areca nuts will not be used for human consumption and the learned Magistrate may pass an order directing the SP to consider the zimma of the seized areca nuts as per SOP for disposal of seized betel nuts (supari) vide No. CID-XI/SOP/Betel Nut/2021/3571) dated 16.09.2021.

Matter is closed.

JUDGE

Comparing Assistant