

GAHC010247362022



**IN THE GAUHATI HIGH COURT  
(The High Court of Assam: Nagaland: Mizoram &  
Arunachal Pradesh)**

**Crl. Pet. 1225/2022**

Manoj Shrinath Maurya

S/O Shrinath Maurya, (Duly Constituted Attorney For  
Principal Vinod Shreenath Maurya, Proprietor Of Maa  
Kamakhya Traders, Rupahihati, P.O. And P.S.-Khatuwal, Dist-  
Nagaon, Assam, Pin-782125

**VERSUS**

The State of Assam

Represented by the Public Prosecutor, Assam

**BEFORE  
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

Advocate for the Petitioner : Mr. M.A. Sheikh

Advocate for the Respondents : Mr. R.R. Kaushik, (Addl. P.P.)

Date of Hearing : 14.03.2023

Date of Judgment : **08.05.2023.**

**JUDGMENT & ORDER (CAV)**

1. Heard Mr. M.A. Sheikh, learned counsel appearing on behalf of the petitioner as well as Mr. R.R. Kaushik, learned Addl. P.P. appearing for the State of Assam.
2. The petitioner Sri Manoj Shrinath Maurya Das has filed an application under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C for short) challenging the order dated 24.02.2022 passed by the Additional Sessions Judge No. 3, Nagaon in Criminal Revision No. 14(N)/2021 & Criminal Revision No. 15(N)/2021, directing disposal of the seized areca nuts in connection with Nagaon P.S. Case No. 2078/2021, under Sections 353/307/379/411/420/34/120(B) IPC (GDE No. 27, dated 02.09.2021). FIR dated 03.09.2021 reflects that on a tipoff a GDE No. 27, dated 02.09.2021 was registered and the police party led by S.I. Udayak Basumatary set up a naka checking in front of Nonoi P.P. and at around 10.40 P.M., two vehicles approaching from the Hojai side were stopped, but the vehicles sped past and also tried to plow the naka checking area swarmed by the patrolling party. The police party however intercepted the vehicles and during search recovered 118 bags of Burmese supari loaded in truck bearing registration no. AS-25-AC-5516 (10 wheeler truck) and 200 bags of suspected Burmese supari loaded in the truck bearing registration no. AS-02-E-5878(6 wheeler truck). When the drivers were asked to produce the documents they failed to produce the same. Both the trucks were seized by the informant S.I. Udyak Basumatary, in presence of witnesses and thereafter, Nagaon P.S. Case No. 2078/2021, under Sections 353/307/379/411/420/34/120(B) IPC was registered. The seizure lists are marked as Annexure-5 and 6 and the FIR is marked as Annexure-4.
3. It is submitted on behalf of the petitioner that he is a lawful attorney of Vinod

Shreenath Maurya, the proprietor of Maa Kamakhya Traders, a sole proprietorship firm dealing in trading of dried areca nuts (Chikni Supari). The Firm is registered with GST Registration No. 18AJWPM708ILIZ7. The Annexure Nos. 1 and 2 respectively are the copies of the general power of attorney dated 20.08.2021 and the GST Registration Certificate. It is submitted that on 02.09.2021, the petitioner's firm loaded 200 Bags of Dry Areca Nuts (II quality) weighing about 1400 KGs in the truck number AS-02-E-5871 to be dispatched from Hojai to Amingaon and the copy of the tax invoice dated 02.09.2021, along with E-way bills are marked as Annexure-3 along with this truck belonging to the petitioner. Another truck bearing registration no. AS-25-AC-5516 loaded with 118 bags of areca nuts was also seized by the police on 03.09.2021. The seized areca nuts are perishable in nature and so the petitioner has filed a petition for zimma of the same in the Court of the learned Chief Judicial Magistrate, (CJM for short), Nagaon and the learned CJM rejected the prayer for zimma of the areca nuts loaded in truck No. AS-02-E-5871 vide order dated 18.09.2021. Against this order, the petitioner has preferred the Criminal Revision Petition under Sections 397/399 of Criminal Procedure Code before the Sessions Judge, Nagaon, which was registered as Criminal Revision Case No. 15(N)/2021. With respect to the 118 Bags of Supari loaded in Truck No. AS-25-AC-5516, the owner Anil Kr. Jadav filed another Revision petition, which was registered as Criminal Revision Petition No. 14(N)/2021. The learned Additional Sessions Judge, who was in seisin disposed of both the petitions by a common judgment dated 29.10.2021 passed in Criminal revision Petition No. 15(N)/2021 by setting aside the order dated 18.09.2021 passed by the Chief Judicial Magistrate and directing the I/O to hand over the custody of the areca nuts after proper verification and completing all the required formalities.

4. Despite, the order dated 29.10.2021, the concerned authority more particularly

respondent No. 7 (I/O of Nagaon P.S. Case No. 2078/2021) did not comply with the Courts order dated 29.10.2021, which impelled the petitioner to file a petition No. 963/2021 dated 15.12.2021 before the Court of Additional Sessions Judge No. 3 alleging non-compliance of the order dated 29.10.2021. The learned Additional Sessions Judge No. 3, Nagaon then issued notice to the I/O/respondent no. 2 to show-cause for non-compliance of the order dated 21.10.2021 and in reply the I/O has submitted a letter No. DOBK/NG/22/14 dated 07.02.2022 issued by Sr. Food Safety Officer, Nagaon to the O/C of Nagaon Police Station, wherein, it was stated that the Supari loaded in trucks numbered AS-25-CC-7403, AS-02-E-5871 and AS-25-AC-5516 are not suitable for human consumption. This letter is marked as Annexure-9. On receipt of the letter, the learned Additional Sessions Judge No. 3 vide order dated 24.02.2022 disposed of the petition with a direction to the I/O to dispose of areca nuts within 10 days from the date of receipt of a copy of the order for instructions from the Regional Office of Pollution Control Board of Nagaon district regarding the appropriate manner of disposal of the seized areca nuts.

5. It is submitted on behalf of the petitioner that the impugned order dated DOBK/NG/22/14 dated 07.02.2022 containing the analysis report of the seized supari is void, illegal and without jurisdiction, consequentially resulting in the order passed by the learned Addl. Sessions Judge, which is void *ab-initio*. It is submitted that the seized areca nuts can be used for preparation of many useful substances, namely, colours etc. The seized areca nuts may not be used for human consumption. The seized areca nuts are not smuggled Burmese supari, but is a local product of Assam. The Forensic Science Report is yet to be received from the Directorate of Forensic Science, Kahilipara. Without any FSL report, the learned Addl. Sessions Judge passed the impugned order. The petitioner has drawn the attention of this

Court to an order passed by a Coordinate Bench of this Court in WP(C)1712/2022, wherein, it was directed that in the interim, the O/C of Nagaon P.S. would not destroy the seized supari and the interim order was in force up to 29.11.2022. This order is marked as Annexure-11. The petitioner has thus prayed to set aside the impugned order as the order will result in the abuse of process of the Court as well as the failure of justice.

6. The Authority of the order dated 24.02.2022 passed by the learned Additional Sessions Judge is under challenge. It is submitted that there are several litigations which arose out of the same FIR. In the present case, the petitioner has prayed for setting aside and quashing the order dated 24.02.2022 as the order is not tenable in law. On the contrary, it is submitted on behalf of the respondent that the order was correctly passed, as the areca nuts are not fit for human consumption. The Director General of Police, police headquarters of Assam police, Ulubari was directed to issue necessary instructions to the I/O to take prompt steps to send samples for analysis and to collect reports thereof. The Annexure-3 reveals that the areca nuts were valued at Rs. 21,60,900/- and were transported by the Kamakhya traders to S.N. Trading company at Amingaon. The areca nuts are perishable and the petitioner may have to suffer loss. The Annexure-3 includes the Tax in-voice and E-way bill. It is reflected in the impugned order dated 24.02.2022 that the report of the I/O dated 07.02.2022 reveals that the samples of supari were collected from the seized stock of supari on 04.02.2022 and the opinion of the food analyst on the supari and the samples of the seized areca nuts in both the trucks bearing registration nos. AS-02-E-5871 and AS-25-AC-5516 is that the areca nuts (supari) are not suitable for human consumption as per Food Safety and Standard Regulation. Through this report, the I/O justified his non-compliance of the order dated 29.10.2021 passed by the Addl. Sessions Judge in Criminal Revision Petition No. 15(N)/2021.

7. After considering the submissions at the Bar with circumspection, I deem it proper to modify the order dated 24.02.2022 passed by the learned Sessions Judge, Nagaon in connection with Criminal Revision Petition No. 14(N)/2021 and Criminal Revision Petition No. 15(N)/2021. At this juncture, the supari are found to be not fit for human consumption. The truck load of supari was seized way back in 02.09.2021 and 03.09.2021. A report from the District Agricultural Officer was called for, relating to the supari, if the supari is the product of the local area or a product from neighbouring countries or if the supari is fit for human consumption. It is also not clear if the case is pending at the stage of investigation or if charge-sheet has been laid in Nagaon P.S. case no. 2078/2021 in connection with Nagaon P.S. 2078/2021.

8. After considering all aspects, the petitioner is directed to file an appropriate petition before the jurisdictional Court for zimma of the seized supari and the learned Court may pass an order to the S.P. to dispose of the seized supari/areca nuts, as per SOP for disposal of the seized betel nuts (supari) vide No. (CID-XI/SOP/Betelnut/2021/357) dated 16.09.2021.

9. In terms of above, this petition stands disposed of.

**JUDGE**

**Comparing Assistant**