

GAHC010258972023



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

Case No. : Crl.Pet./1222/2023

ABDUL HAMID
S/O AMJAD ALI
VILL- DHOLAGASSA
P.S. MERERCHAR
DIST. BONGAIGAON, ASSAM

VERSUS

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

2:SRI KAPIL PATHAK
I/C JORABAT OUT POST
UNDER BASISTHA POLICE STATION
DIST. KAMRUP (M)
ASSAM-78102

Advocate for the Petitioner : MR. A M KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

20.11.2023.

Heard Mr. A.M. Khan, learned counsel for the petitioner.

2. This is an application under Section 482 of the Cr. P.C., read with Section 401/397 of the Cr.P.C., filed by petitioner Abdul Hamid, with prayer for modification of the order dated 21.08.2023, passed by the learned SDJM (S) No.2, Kamrup (M) at Guwahati, passed in connection with the Basistha P.S. Case No.166/2023, registered under Sections 379/429/34 of the IPC, read with Section 13(1)/16 of the Assam Cattle Preservation (Amendment) Act, 2021, read with Section 11(1)(d) of the Prevention of Cruelty to Animals Act, and quashing and setting aside the order dated 13.10.2023, passed by the learned Addl. Sessions Judge No.1, Kamrup (M) at Guwahati, in Criminal Revision No.59/2023.

3. Also heard Mr. D.P. Goswami, learned Addl. P.P., Assam appearing for the respondents.

4. The learned Addl. P.P. has accepted notice on behalf of both the respondents and no formal notice is required to be issued. However, sufficient copies to be furnished to the learned counsel for the respondents, during the course of the day.

5. Vide order dated 21.08.2023, the learned SDJM (S) No.2, Kamrup (M) at Guwahati passed an order for zimma of the vehicle bearing Regn. No.NL-02Q-7984 to the registered owner, on furnishing a bank guarantee equal to the value of the vehicle. The vehicle is valued at Rs.15,00,000/- (Rupees fifteen lacs) only and the petitioner is unable to submit the bank guarantee for such a huge amount. So the petitioner preferred a revision being Criminal Revision No.59/2023, before the learned Addl. Sessions Judge No.1, Kamrup (M) at Guwahati and vide judgment and order dated 13.10.2023, the petitioner's prayer for modification of the order dated 21.08.2023, passed by the learned SDJM (S) No.2, Kamrup (M) at Guwahati, in connection with the Basistha P.S. Case No.166/2023, in so far as the bank guarantee is concerned was dismissed.

6. I have considered the submissions at the bar and have perused the record.
7. It is submitted on behalf of the petitioner that the petitioner will abide by the other conditions imposed upon him vide order dated 21.08.2023, in connection with the Basistha P.S. Case No.166/2023 but he is unable to furnish the bank guarantee equal to the valuation of the vehicle tantamounting to Rs.15,00,000/- (Rupees fifteen lacs).
8. In view of the above, I have taken a pragmatic approach that although no illegality or impropriety is discernable in the order(s) impugned, but for the end of justice, the order(s) is modified.
9. As the petitioner is unable to furnish the bank guarantee of the vehicle amounting to Rs.15,00,000/- (Rupees fifteen lacs), so the petitioner is directed to furnish suitable solvent surety of Rs.15,00,000/- (Rupees fifteen lacs), instead of bank guarantee for zimma of the aforementioned vehicle.
10. In terms of the above observation, petition is disposed of.

JUDGE

Comparing Assistant