

GAHC040011302019



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

Case No. : Crl.Rev.P./3/2019

SHRI TASSO TAMIN
S/O LT. TASSO TAKIA, PERMANENT RESIDENT OF RADUM VILLAGE,
PO/PS RAGA, DIST. KAMLE, AP. MOBILE NO. 9436054132

VERSUS

THE STATE OF AP and 3 Ors.
REPRESENTED THROUGH THE PUBLIC PROSECUTOR, GOVT. OF AP,
2:MISS RUBU ANU ALIAS RINYA

Age: 0

Occupation :

D/O SHRI RUBU KHODA

PERMANENT RESIDENT OF TAJANG VILLAGE

PO/PS ZIRO

AP.

3:THE HEAD MASTER

Age: 0

Occupation :

GOVT. OF M.E SCHOO RADUM

PO/PS RAGA

DIST. KAMLE

AP.

4:Hage Richo

Age: 0

Occupation :

Permanent Resident of Tajang Village

PO/PS Ziro

District Lower Subansiri

A

Advocate for the Petitioner : MsA Perme, N Tate, MrT Son, T Nech, T Taje, P Nabam, T Torum, L

Rupan

Advocate for the Respondent : P P of AP, ,,,,,,,R. Millo

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 20-09-2024

Heard Mr. T. Son, learned counsel for the petitioner. Also heard Mr. G. Tado, learned Additional Public Prosecutor appearing for the State respondent No.1 and Mr. R. Millo, learned counsel for the respondent No.2.

2. It would be appropriate to mention herein that during the pendency of this criminal revision petition filed under Section 401, read with Section 482 of the Cr.P.C, the original complainant who had lodged the complaint had expired and pursuant to the order of this Court, the respondent No.4 was impleaded as a legal representative for deceased complainant. The representative of the deceased complainant was added as respondent No.4 because the son of the petitioner was also separately charged for committing offence punishable under Section 376(i)(D) of the IPC, (as it existed prior to the said Clause being omitted with effect from 21.04.2018), read with Section 4 of the POCSO Act and accordingly, as per the notification of this Court in force, the informant and the legal heir of the deceased complainant was impleaded.

3. The order which is assailed in this criminal revision petition is the order dated 09.12.2016, passed by the learned Sessions Judge-cum-Special Judge, West Sessions Division, Yupia in connection with Misc. Case No. 23/2015 and 24/2015. By the said order, the claim in respect of the son of the petitioner that

he was a juvenile, was rejected on school records being found tampered. The said order is assailed in this petition.

4. On perusal of the affidavit-in-opposition filed by the respondent No.2, it is disclosed therein that vide judgment dated 13.03.2018, the two accused persons in Sessions Case No.13/2015(YPA) were charged under Sections 302/392/34 of the IPC and that they were both convicted under Sections 302/392 IPC. And they were sentenced to undergo imprisonment for life and to pay a fine of Rs.2,000/- each for committing offence punishable under Section 302 IPC and they were also sentenced to undergo simple imprisonment of 7(seven) years and to pay a fine of Rs.1000/- each in default of payment of fine of those offences.

5. The same two accused persons were separately convicted for committing offence under Section 376 (D) of the IPC and they were sentenced to undergo rigorous imprisonment for 20(twenty) years and to pay a fine of Rs.5000/- with default stipulation. The said judgment and order of sentence was passed on 16.03.2018 in connection with Sessions Case No. 12/2015(YPA).

6. In the opinion of Court, the issue of juvenility which was passed at interlocutory stage of the trial cannot be independently assailed any longer after the order of conviction and sentence has been passed, as the interlocutory order stands merged with the main order. Therefore, the Court is of the opinion that the petitioner may seek appropriate legal advice as to how the interlocutory order can be assailed after judgment and order of punishment is passed.

7. Accordingly, notwithstanding that notice could not be served on

respondents No.3 and 4, this Court finds that no purpose would be served to proceed further in this criminal revision petition as the matter in issue has become infructuous with passing of final judgment and order of conviction in 2(two) trials referred above.

8. With the said observations, this criminal revision petition stands closed.

JUDGE

Comparing Assistant