

GAHC010001252022



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

Case No. : CRL.A(J)/13/2022

Smti. Patai Rabidas

W/o- Bimal Rabidas,

R/o- Belghata Gaon, P.S- Pulbari,

Sub-Division Rangpur, Bangladesh

...APPELLANT

-VERSUS-

1. The State of Assam

Represented by the P.P., ASSAM

....RESPONDENT

Advocate for the Petitioner : MS. S KHATANIAR(AMICUS CURIAE)

Advocate for the Respondent : Mr. K. Bhaishya, Id. Addl. P.P.

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

Date of hearing : 27.02.2024

Date of Judgment : 03.05.2024

JUDGMENT & ORDER (CAV)

Heard Ms. S. Khataniar, learned Amicus Curiae appearing on behalf of the appellant. Also heard Mr. K. Bhaishya, learned Additional Public Prosecutor for the State respondent.

2. This present jail appeal is preferred by the appellant namely Smti Patai Rabidas against the impugned order dated 22.02.2021 passed by the learned Judicial Magistrate First Class, Dibrugarh, in connection with Chabua Police Station, Non FIR Case No. 01/2020 [GR case No. 30/2020], registered under Rule 6(a) of the Passport (Entry into India) Rules, 1950, wherein, she was sentenced to undergo Simple Imprisonment for 3(three) years.

3. The brief facts of the case is that; the appellant was found moving suspiciously at Pulunga village under Chabua Police Station and later she was arrested on suspicion and upon being interrogated she revealed that she is a resident of Belghata Gaon, under Pulbari Police Station, Sub-Division Rangpur, Bangladesh and she herself admitted that she entered India illegally without any valid passport. Accordingly, Non FIR case was registered under Rule 6(a) of the Passport (Entry into India) Rules, 1950 against the appellant and she was remanded to jail hazot. Thereafter, the case was fixed for framing of charge on 22.02.2021, where, the accused/appellant admitted her guilt that she is a resident of Belghata Gaon, under Pulbari Police Station, Sub-Division Rangpur,

Bangladesh and she had entered India illegally without any valid passport. On the basis of her admission only, the order of conviction was passed on the day of consideration of charge and accordingly, she was convicted under Rule 6(a) of the Passport (Entry into India) Rules, 1950 on the ground of entering Indian Territory illegally.

4. Ms. S. Khataniar, learned Amicus Curiae has submitted that the appellant had accepted her guilt herself and thus, the learned Court below passed the order dated 22.02.2021 by convicting the appellant under Rule 6(a) of the Passport (Entry into India) Rules, 1950 and sentenced her to undergo S.I. for a period of 3 years.

5. She also submitted that the present appellant is an old lady of 54 years and she was earlier allowed to go on bail by the learned Court below on 08.06.2022, but, she could not arrange the bailor and for which she had to remain in the judicial custody since 04.04.2020. Accordingly, it is submitted by the learned Amicus Curiae that her case may be considered leniently and she may be acquitted.

6. In this context, Mr. Bhaishya, learned Additional Public Prosecutor has submitted that the conviction order was passed on her admission of guilt on the day of framing of charge. Thus, the order passed by the learned Court below needs no interference of this Court as the accused/appellant has been rightly convicted under Rule 6(a) of the Passport (Entry into India) Rules, 1950 and sentence passed is also reasonable and justified.

7. After hearing the submissions made by the learned counsels for both sides, I have perused the Case Record, it is seen that the Non FIR case was registered

under Rule 6(a) of the Passport (Entry into India) Rules, 1950 and the police intercepted her when she was moving in the village in suspicious condition and on her interrogation she admitted the fact that she entered into Indian Territory illegally. More so, it is also seen that she voluntarily admitted her guilty before the Trial court at the time of framing of charge on 22.02.2021. Thus, the learned Court below convicted the accused/appellant under Rule 6(a) of the Passport (Entry into India) Rules, 1950 and subsequently, sentenced her to undergo Simple Imprisonment for 3(three) years.

8. Thus, there cannot be any ground for interference in the order passed by the learned Court below, where, the appellant voluntary admitted her own guilt. However, from the record it is seen that she was arrested in connection with this case on 04.04.2020. Further, the learned Court below also set off the period of detention for the period of sentence under Section 428 of Cr. P. C. Accordingly, I find that the learned Court below had rightly passed the conviction order and hence, the present appeal has no merit and accordingly the same stands dismissed.

9. Further, considering the fact that the appellant is behind the bar since 04.04.2020, the Jail authority is hereby directed to do the needful to release her, if she is not wanted in any other case(s) after calculation of period of sentence and also to do the needful for her deportation.

10. With above observations, this appeal stands disposed of.

JUDGE

Comparing Assistant