

GAHC010008192010



2024:GAU-AS:12583

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

Case No. : Crl.Rev.P./449/2010

AJOY KUMAR CHOUDHURY
S/O SHRI AMALENDU CHOUDHURY R/O VILL- DURGANAGAR, P.O.
DURGANAGAR TARAPUR, P.S. SILCHAR, DIST. CACHAR, ASSAM.

VERSUS

BURA DAS @ RATAN DAS and ORS.
S/O LT. SUNL DAS,

2:SUMAN DASGUPTA

S/O LT. SUNIL DASGUPTA

3:NANTU DHAR

S/O NIPU DHAR

4:PINTU DHAR
S/O NIPU DHAR

5:SANJU DAS
S/O CHARITRA DAS

6:NILU DAS
S/O CHARITRA DAS

7:NIDHU DAS
S/O CHARITRA DAS

8:FANI DAS
S/O LT. BIHARI DAS

9:SANKU DAS
S/O LT. BIHARI DAS

10:KUTAN DAS
S/O ADHIR DAS

11:BABLU DAS
S/O UNKNOWN

12:CHANDAN DAS
S/O CHITTA DAS

13:CHAMPU DAS
S/O CHITTA DAS

14:CHITTA DAS
S/O LT. CHANDI DAS ALL R/O VILL- DURGANAGAR
P.O. DURGANAGAR TARAPUR
P.S. SILCHAR
DIST. CACHAR
ASSAM

Advocate for the Petitioner : MR.N DHAR, MR.S CHAKRABORTY

Advocate for the Respondent : MISSR RONGMAI, MISS.K L R YANTHAN,MR.M BISWAS

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 9.12.2024

1. None appears for the petitioner on call.
2. The present application under sections 397/401 Cr.P.C read with article 227 of the Constitution of India is filed by the informant in GR Case No.3059/2002, corresponding to Silchar PS Case No.1515/2002.

3. Being aggrieved by the sentence passed under judgment and order dated 14.05.2010 by the learned Chief Judicial Magistrate, Cachar, Silchar in GR Case No.3059/2002, more particularly, against imposition of only fine of Rs.200/- in each count under sections 147/149/447/323/324/336 IPC, the present revision petition is filed.

4. None appears for the petitioner to support his case, however, following grounds are taken while challenging the aforesaid judgment.

A. For that the learned trial court below failed to exercise jurisdiction in terms of law and facts and thus the impugned judgment and order of conviction and sentence ought to be enhanced.

B. For that the impugned judgment and order dated 14.05.2010 passed by the learned court below convicting the opposite parties/accused persons under sections 147/447/323/324/427 IPC but sentencing them to pay a fine of Rs.200/- only on each count are not legal, correct and proper under the facts and circumstances of the case.

C. For that the impugned judgment and order dated 14.05.2010 passed by the learned court below convicting the opposite parties/accused persons under section 147/447/323/324/427 IPC but sentencing them to pay a fine of Rs.200 only on each count are not legal, correct and proper inasmuch as the punishment for offence prescribed under the law under section 147 IPC and 324 IPC may extend to 2 to 3 years with imprisonment of either description or with fine of with both as prescribed under the law.

D. For that the impugned judgment and order dated 14.05.2010 passed by the learned court below convicting the opposite parties/accused persons under sections 147/447/323/324/427 IPC but sentencing them to pay a fine of Rs.200/- only on each count are not legal and correct but inadequate and as such the sentence of the

opposite parties/accused persons are liable to be enhanced as provided under section 401 of the Code of Criminal Procedure.

E. For that in any view of the matter the impugned judgment and order dated 14.05.2010 passed by the court below are not legal, correct and proper and as such these are liable to be set aside and the punishment of the opposite parties/accused persons are liable to be enhanced under the facts and circumstances of the case in the interest of justice.

5. Perused the judgment.

6. The learned trial court while considering the sentence, took into account all the ordeals that the accused persons had gone through due to protracted trial that lasted for a long period coupled with the nature of injuries and the fact that all these happened due to adamant attitude displayed by the prosecution side by encroaching a certain portion of public path and sentenced to pay only fine and concluded that same shall meet the ends of justice fairly and squarely.

7. In the considered opinion of this court and in the given facts of the said case, more particularly, when the matter involves a dispute over a plot of land/public road, this court is of the view that such consideration of the learned trial court cannot be termed as having any patent defect of fact or law.

8. Accordingly this court is not inclined to exercise its revisional power to interfere with such well reasoned judgment.

9. Accordingly the revision petition stands dismissed.

JUDGE

Comparing Assistant