

GAHC010048942024



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

Case No. : Crl.Rev.P./85/2024

MD. NURHAMUDDIN
S/O MD. ALAL UDDIN
R/O VILL- GORUMARA DOLONI
P.S. MAYANG,
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

11.03.2024

Heard Mr. M.A. Sheikh, learned counsel for the petitioner. Also heard Mr. D. Das, learned Addl. P.P, Assam.

This is an application under Section 401 read with Section 397 of the Cr.PC for setting aside the Order dated 05.02.2024, whereby the Chief Judicial Magistrate, Kamrup (Metro) issued W/A & P/A against the petitioner in GR Case No. 1868/2018 arising out of PGR P.S. Case No. 38/2018.

The facts of the case is that the petitioner was arrested in connection with an FIR dated 13.02.2018 in Pragjyotishpur P.S. Case No. 38/2018 resgistered under Section 376 IPC. The petitioner was arrested and released on bial by Order dated 10.04.2018 passed by the Sessions Judge, Kamrup (M). Subsequently, Charge-sheet being No. 24/2018 dated 28.03.2018 was submitted by the Police under Section 376 IPC and a case was registered as GR Case No. 1868/2018. Thereafter, the petitioner was arrested in connectin with the aforesaid case and by Order dated 10.04.2018, the petitioner was granted bail.

Though by Order dated 20.03.2019, summon was issued to the petitioner, however, he did not receive the said notice from the Court of Chief Judicial Magistrate. Accordingly, the petitioner was absent without steps for which W/A and P/A were issued against the petitioner by Orders dated 06.01.2020, 21.10.2021, 15.02.2022, 14.06.2022, 28.09.2022, 01.01.2023, 12.04.2023, 21.07.2023 and 05.02.2024. Aggrieved by the said orders, the present criminal

revision petition has been filed.

Mr. M.A. Sheikh, learned counsel for the petitioner submits that since summons was not received by the petitioner, he could not appear before the Trial Court and accordingly, the impugned orders of W/A and P/A were issued against him. He further submits that the petitioner is willing to appear on all dates fixed from time to time.

Mr. D. Das, learned Addl. P.P submits that if the petitioner is willing to appear on all dates before the Trial Court fixed from time to time, he has no objection to the prayer made in the revision petition.

I have heard the submissions made at the bar and have perused the materials available on record.

It appears that since the petitioner did not receive the summons issued, the petitioner could not appear on the date fixed before the Trial Court.

Be that as it may, this Court, in view of the assurances and endorsement made by Mr. M.A. Sheikh, learned counsel for the petitioner to the effect that the petitioner is willing to appear before the Trial Court on all dates fixed from time to time, this Court deems appropriate to dispose of the criminal revision petition with a direction that the petitioner shall appear before the Court of CJM Kamrup (M) on the next date, i.e., 12.04.2024 and subject to such appearance, the W/A and P/A and NBWA issued against the petitioner by Orders dated 06.01.2020, 21.10.2021, 15.02.2022, 14.06.2022, 28.09.2022, 01.01.2023, 12.04.2023, 21.07.2023 and 05.02.2024 shall be kept in abeyance.

Upon appearance of the petitioner, the Trial Court shall consider the case on its own merit by taking into consideration that the petitioner did not receive the summons for which he could not appear before the Court on the earlier dates.

Accordingly, with the aforesaid observation and direction, this criminal revision petition stands disposed of.

JUDGE

Comparing Assistant