

GAHC010066042024



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

Case No. : Crl.Pet./367/2024

EKBAL UDDIN
S/O ABDUL NOOR, R/O VILL- SARAPUR, P.S.-BADARPUR, DIST-
KARIMGANJ, ASSAM, PIN-788701

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. B U LASKAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

23.04.2024

1. Heard Mr. B. U. Laskar, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State of Assam.
2. The present application is filed under Section 482 of Cr.P.C. for setting aside and quashing an order dated 19.02.2020 passed by the learned Additional Chief

Judicial Magistrate, Karimganj in G.R. Case No. 2397/2016, whereby the NBWA was issued against the petitioner for non appearing in the trial proceeding wherein the petitioner is an accused.

3. The petitioner has remain absent from 19.02.2020 to 16.02.2024 and now has approached this Court challenging the NBWA. The petitioner has given certain explanations for non attendance, such as the Covid-19 pandemic, not being aware of the consequence of not appearing before the learned trial court being an illiterate person and for his travel to State of Karnataka for earning his livelihood as he claims to be a daily wage earner.
4. This Court is of the view that the petitioner should first approach before the learned trial Court below filing an appropriate application to recall the NBWA inasmuch as it is the stand of the petitioner that he will hereinafter appear before the learned trial Court on each and every date and his default was bonafide.
5. Accordingly, the present criminal petition is disposed of directing the learned trial Court below to consider the case of the petitioner for recalling of the NBWA already issued by the order dated 19.02.2020.
6. On such an application being filed, the learned trial Court below shall consider the case of the petitioner as per law. Till consideration of such prayer, the NBWA issued by the order dated 19.02.2020 and any subsequent order of WA shall not be given effect to.
7. Accordingly, this criminal petition stands dismissed.

JUDGE

Comparing Assistant