

GAHC010067452024



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

Case No. : Crl.Rev.P./130/2024

JAKIR HUSSAIN
S/O LATE MATLEB ALI
R/O H. NO. 167, HATIGAON, DARGAH ROAD, P.S. AND P.O. HATIGAON
DIST. KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR B M DEKA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND
ORDER

26.06.2024

Heard Mr B M Deka, learned counsel for the petitioner, Jakir Hussain, who has filed this application under Sections 397/401, read with Section 482 of the Code of Criminal Procedure, 1973, challenging the order dated 20.03.2024, passed by the learned Judicial Magistrate First Class-4, Kamrup (Metro), Guwahati, in connection with Hatigaon PS Case No. 38/2024, registered under Sections 120(B)/420/421/422/423/386/387/34 of the

Indian Penal Code, 1860, rejecting the zimma petition of the petitioner.

2. Heard Ms S Jahan, learned Additional Public Prosecutor for the State of Assam.

2. The learned Additional Public Prosecutor has raised objection against the petition, stating that the IO has submitted a report and the IO has serious objection relating to seizure of articles seized in connection with the aforementioned case.

3. It is submitted on behalf of the petitioner that the petitioner is the Secretary of “Saraighat Trading Cooperative Society Limited”, which is a registered society under the Cooperative Societies Act, 2007.

3. The allegation against the petitioner is that he has been using his official capacity in transaction of money belonging to the cooperative society in an illegal manner. Money counting machine, certain documents etc. were seized in connection with this case by the investigating agency in presence of witnesses. As the articles seized in connection with this case rightly belongs to the Society, the petitioner has prayed for zimma of the articles seized in connection with this case.

4. Vide order dated 20.03.2024, the learned JMFC rejected the petition with prayer for zimma.

5. It is averred that only on the report of the IO the petition with prayer for zimma was rejected by the learned JMFC. The order has been assailed on the ground that no reasons have been attributed and a cryptic order was passed while rejecting the petition with prayer for zimma.

6. I have considered the submissions at the Bar with circumspection.

7. The report of the IO clearly reveals that the articles seized in connection with this case are required for further investigation of the case. However, the articles enlisted in the seizure list marked as Annexure-3, reveals that some articles may not be required for further investigation of the case.

8. Considering all aspects, the articles mentioned in the Seizure List at Serial Nos. 1, 2, 11, 12 and 13, under the heading- Description of documents/articles, can be handed over to the petitioner. The jurisdictional Court is hereby directed to pass an order for zimma of the aforementioned articles seized in connection with this case, to the petitioner. The Court may impose any condition which the Court deems fit and proper. The petitioner is also at liberty to approach the jurisdictional Court for zimma of the other seized articles by filing a fresh application and the learned jurisdictional Court may dispose of the petition, as per merits of the case.

9. In terms of the above observations, the criminal petition stands disposed of.

JUDGE

Comparing Assistant