

GAHC010070072021



2024:GAU-AS:12453

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

Case No. : Crl.A./126/2021

KAMAL CH. DAS
S/O- SRI MAHESWAR DAS,
R/O- VILL- BHANUKUCHI, P.O.- GUWAKUCHI, P.S.- GHOGRAPAR, DIST-
NALBARI, ASSAM.

VERSUS

GHANASHYAM SARMA AND ANR.
S/O- LATE JIBESWAR SARMA,
R/O- VILL- AMAYAPUR, P.O- BAGAL'S ROAD CHOWK, DIST- NALBARI,
ASSAM, PIN- 781348.

2:THE STATE OF ASSAM
REPRESENTED BY PP
ASSAM

Advocate for the Petitioner : MR. I H SAIKIA, .,MR. M R CHOUDHURY,MR. K KALITA

Advocate for the Respondent : MR P DAS, MR SARFRAZ NAWAZ, AMICUS CURIAE(R-1),MS.
D SAIKIA (R-1),MR P PRAWAR,MR. B DEKA

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

10.12.2024

Heard Mr. I. H. Saikia, learned counsel for the appellant. Also heard Mr. S. Nawaz, learned Amicus Curiae for the respondent No.1 and Ms. S. H. Borah, learned Additional Public Prosecutor representing the State respondent No.2.

This appeal is filed under Section 378 of the Code of Criminal Procedure, 1973, against the impugned Judgment and Order dated 23.02.2021, passed by the Court of the learned Chief Judicial Magistrate, Nalbari, in N.I. Case No. 60/2016, registered under Section 138 of the Negotiable Instruments Act, 1881, whereby, the accused/respondent No. 1 was acquitted and set at liberty.

Today, the case was fixed for hearing; however, before proceeding with the hearing, Mr. Nawaz, learned Amicus Curiae for respondent No. 1, submits that the statement under Section 313 of Cr. P.C. of the accused/respondent No. 1 is blank, and the answers have not been filled up by the learned Trial Court. Accordingly, he submits that it may be proper to remand the matter to the learned Trial Court with a direction for the fresh disposal of the case.

In this regard, Mr. Saikia, learned counsel for the appellant, has also supported the submission made by the learned Amicus Curiae.

Hearing the submissions made by the learned counsels for both parties, I have perused the case record of N.I. Case No. 60/2016. It is seen that no answer is recorded in the statement of the accused/respondent No.1 under Section 313 of Cr. P.C., though it has been signed by both the accused and the officer concerned. Thus, the casual approach of the learned Trial Court is deprecated. Accordingly, the case is remanded to the said Trial Court for fresh disposal from the stage of recording the

statement of the accused/respondent No. 1 under Section 313 of Cr. P.C. After recording the statement, the matter may be heard and decided accordingly.

The Registry is hereby directed to return the LCR immediately to the learned Trial Court.

With the aforesaid observation and direction, this criminal appeal stands disposed of.

JUDGE

Comparing Assistant