

GAHC010119572024



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

Case No. : Crl.Pet./684/2024

NAREN GOGOI
S/O LATE GUNARAM GOGOI
R/O GELLAPUKHURI
P.O., P.S. AND DIST. TINSUKIA
ASSAM

VERSUS

PREM UPADHYAY
S/O SRI RAJKUMAR UPADHYAY,
R/O KAMAKHYA NAGAR,
P.O., P.S. AND DIST. TINSUKIA, ASSAM

Advocate for the Petitioner : MR N ANIX SINGH

Advocate for the Respondent :

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

13.06.2024

Heard Mr. N.A. Singh, the learned counsel appearing for the petitioner.

2. This is an application under Section 482 of the CrPC in respect of the impugned order dated 28.02.2024 passed by the learned Addl. Chief Judicial Magistrate, Tinsukia in N.I. Case No.32/2012.
3. The petitioner was convicted under Section 138 of the N.I. Act. His appeal was also dismissed. Thereafter, he compromised the case with the complainant/informant. In fact, the petitioner paid the entire loan which was due from him to the informant of the case.
4. Thereafter, the petitioner filed an application before the trial court and the learned Addl. CJM, Tinsukia held that he does not have inherent power to compound the offence. Therefore, the court below rejected his prayer and issued Non-Bailable Warrant of Arrest (NBWA) against the present petitioner.
5. In order to buttress his contention, Mr. Singh has relied upon a decision of the Hon'ble Supreme Court that was rendered in *B V Seshiah vs. State of Telangana and Another*, reported in (2023) 2 SCR 293.
6. I have considered the submissions made by the learned counsel of both sides.
7. The prayer of Mr. Singh is allowed.
8. Since both the parties have made a compromise on payment of the money due to the informant of the case, the sentence imposed upon the petitioner need not be executed.
9. The Non-Bailable Warrant of Arrest issued against the present petitioner shall be recalled. The impugned order dated 28.02.2024 passed by the learned Addl. Chief Judicial Magistrate, Tinsukia in N.I. Case No.32/2012, is set aside.

The criminal petition is disposed of.

JUDGE

Comparing Assistant