

GAHC010139622023



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

Case No. : Crl.Pet./733/2023

JAINUL HAQUE SHEIKH
S/O LATE AFTAB ALI SHEIKH
R/O VILL-BERABAG PART-II, P.S. SONAI, DIST. CACHAR, ASSAM
TEMPORARY R/O
C/O DIBARASMI BERIA,
H.NO. 17, RUPNAGAR, BHANGAGARH, KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:NURUL HAQUE CHOUDHURY
S/O KUTI ALI CHOUDHURY
R/O VILL- KALINAGAR PART-VI
(BABU BAZAR)
P.S. PANCHGRAM
DIST. HAILAKANDI
ASSAM
PIN-78880

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 20.06.2024

Heard Mr. L.R. Mazumder, learned counsel appearing for the petitioner and

- Mr. D. Das, the learned Additional P.P. for the State of Assam/respondent No. 1.
2. None appears for the respondent No. 2.
3. This is a petition u/s 482 of the Cr.P.C. praying for setting aside the order dated 09.03.2023 passed by the learned Additional Sessions Judge (FTC), Cachar, Silchar in Criminal Revision Petition No. 141 of 2022.
4. The present petitioner is the registered owner of a vehicle bearing registration No.AS-01-AQ/4848. He has alleged that the respondent No. 2 has borrowed his vehicle and did not return the same.
5. Therefore, the petitioner filed an application before the Court of the Magistrate and the Court allowed the prayer of the petitioner.
6. The respondent No. 2 filed a Revision Petition before the learned Additional Sessions Judge, (FTC), Cachar, Silchar. The Revisional Court observed that the Court of the Magistrate without making any enquiry u/s 94 of the Cr.P.C. had allowed the prayer of the present petitioner.
7. Therefore, the order of the Add. District Magistrate, Cachar, Silchar dated 07.12.2022 was set aside and the matter was remanded back to the Court of the Magistrate to make necessary enquiry as required u/s 94 of the Cr.P.C.
8. The vehicle is still pending in the custody of police. The present petitioner is the registered owner of the vehicle having all valid documents.
9. Therefore, the impugned order dated 09.03.2023 passed by the learned Additional Sessions Judge (FTC), Cachar, Silchar is not found to be logical and stands set aside.
10. The order of the Add. District Magistrate, Cachar, Silchar dated 07.12.2022 passed in Case No. 895 of 2022 is restored.

11. The petitioner shall act accordingly pursuant to the order passed by the Add. District Magistrate, Cachar, Silchar.

The criminal petition stands disposed of.

JUDGE

Comparing Assistant