

GAHC010173882024



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

Case No. : Crl.Pet./1584/2024

DHYAN FOUNDATION
HAVING ITS REGISTERED OFFICE AT A-80, SOUTH EXTENSION, PART-2,
NEW DELHI-110049, REPRESENTED BY ITS AUTHORISED SIGNATORY,
SHRI SANOJ KUMAR, AGED 18 YEARS,
SON OF NUNU SAHANI
TILBIHTA,BERUA, MUZAFFARPUR, BIHAR, -843122.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PP, ASSAM

2:KAMLA BEGUM @ KAMLA BIBI
WIFE OF ABDUL JALIL
R/O DAKSHIN MANIKONA

P.O. KALIMA

P.S. AND DIST. KARIMGANJ
ASSAM-788712

3:ASODDAR ALI @ ASDAR ALI
S/O LATE ABDUL MAZID
R/O DAKSHIN MANIKONA

P.O. KALIMA
P.S. AND DIST. KARIMGANJ
ASSAM-788712

4:FIRUJ ALI @ FIROJ ALI
S/O LATE SURMAN ALI
R/O DAKSHIN MANIKONA

P.O. KALIMA
P.S. AND DIST. KARIMGANJ
ASSAM-788712

5:LAILA BIBI
W/O NIYAM @ NIJAM UDDIN
R/O MANIKONA

P.O. KALIMA
P.S. AND DIST. KARIMGANJ
ASSAM-788712

6:DIPAN NAMASAUDRA @ MAZUMDAR
S/O LATE RABINDRA NAMASUDRA
KALIMA

P.O. KALIMA
P.S. AND DIST. KARIMGANJ
ASSAM-78871

Advocate for the Petitioner : MR. DITUL DAS, MS TINLUNG

Advocate for the Respondent : PP, ASSAM,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

19.12.2024

Heard the learned counsel Mr. D. Das appearing for the petitioner. Also heard Mr. R.R. Kaushik, the learned Addl. Public Prosecutor, Assam.

2. This application has been filed under Section 528 of BNSS, 2023 praying for setting asides the orders dated 27.09.2023, 22.11.2023, 29.11.2023, 11.01.2024, 17.02.2024, 03.05.2024, 17.05.2024 and 11.06.2024 passed by the learned Chief

Judicial Magistrate, Karimganj in respect of Karimganj P.S. case No.519/2023.

3. The petitioner runs a Goshala at Karimganj in Cachar. At one point of time, the Border Security Force (BSF) seized 28 numbers of cows which were intended to be smuggled into Bangladesh. Since the petitioner has been running a Goshala, the BSF handed over 28 numbers of seized cows to the petitioner for their interim custody. After that, out of them, 23 numbers of cows had their natural death and 5 of them have already been taken away by police.

4. Regarding the death of the cows, the petitioner produced death certificates before the learned Chief Judicial Magistrate, Karimganj. In spite of that, the learned CJM has been passing some orders on the basis of petitions filed by some other persons giving them the custody of those cows.

5. Since seized cows have already died, according to the petitioner, the police took away its other cows.

6. I have considered the submissions made by the learned counsel of both sides.

7. After considering the materials available with the record, this Court is of the opinion that the learned Chief Judicial Magistrate, Karimganj unnecessarily passed all those orders without applying judicial minds. Therefore, all orders passed in respect of Karimganj P.S. Case No.519/2023 giving custody of seized cows to other people are set aside.

8. The learned Chief Judicial Magistrate, Karimganj shall give an opportunity to the present petitioner to prove their case before passing orders of giving custody of seized cows.

With the aforesaid direction, the present Criminal Petition is disposed of.

JUDGE

Comparing Assistant