

GAHC010202082018



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

Case No. : Crl.Rev.P./339/2018

SMTI REETOO KALITA
S/O- SRI DIBYA JYOTI KALITA, R/O- VILL- BAJHAR SAIKIA CHUBURI,
DEKARGAON, P.O. DEKARGAON, P.S. TEZPUR, DIST- SONITPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:SRI ARUP SAIKIA
S/O- SRI MAHENDRA NATH SAIKIA
R/O- VILL- MURHATETELI
P.O. AND P.S. TEZPUR
DIST- SONITPUR
PIN- 784001
ASSA

Advocate for the Petitioner : MR. A CHAMUAH, MS. P BORTHAKUR,MR. P P BORTHAKUR

Advocate for the Respondent : PP, ASSAM, MR. S SAHU (R2)

Linked Case : I.A.(Crl.)/753/2024

SMTI REETOO KALITA
S/O- SRI DIBYA JYOTI KALITA
R/O- VILL- BAJHAR SAIKIA CHUBURI
DEKARGAON
P.O. DEKARGAON

P.S. TEZPUR
DIST- SONITPUR
ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP BY THE PP ASSAM

Advocate for : MR. P P BORTHAKUR
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

22-08-2024

Heard Mr. P B Borthakur, learned counsel for the petitioner/applicant and Ms. S Jahan, learned Additional Public Prosecutor, Assam for the State respondent No. 1. Also heard Ms. A Roy, learned counsel for the respondent No. 2.

2. In a complaint filed by the respondent No. 2 under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881 before the Court of the learned Chief Judicial Magistrate, Sonitpur, Tezpur against the petitioner, C.R. No. 307/2011 was registered.

3. After hearing the parties, the learned Additional Chief Judicial Magistrate, Tezpur by judgment dated 05.01.2018 passed in C.R. No. 307/2011 convicted the petitioner under Section 138 of the N.I. Act and imposed a sentence of fine of Rs. 6,00,000/- that includes the cheque amount and a lump-sum amount of interest, in default, to undergo rigorous imprisonment for 6 (six) months with the observation that the entire fine amount shall be paid as compensation to the complainant, i.e., the respondent No. 2.

4. Against the said order of the learned Additional Chief Judicial Magistrate, Tezpur dated 05.01.2018, the petitioner preferred an appeal before the learned Sessions Judge, Sonitpur, Tezpur in Criminal Appeal No. 05 (S-1)/2018.

- 5.** After hearing the parties, by judgment dated 29.06.2018, the learned Additional Sessions Judge (FTC), Sonitpur, Tezpur dismissed said appeal of the petitioner, upholding the order of the learned Additional Chief Judicial Magistrate, Tezpur dated 05.01.2018 passed in said C.R. No. 307/2011, noted above.
- 6.** Aggrieved, the petitioner filed this criminal revision petition.
- 7.** While issuing notice on 14.09.2018, the Court stayed the impugned judgment dated 05.01.2018 passed by the learned Additional Chief Judicial Magistrate, Tezpur in C.R. No. 307/2011 as well as the judgment dated 29.06.2018 passed by the Additional Sessions Judge (FTC), Sonitpur, Tezpur in Criminal Appeal No. 05 (S-1)/2018.
- 8.** By filing the connected Interlocutory Application, being I.A.(Crl) No. 753/2024, both, the petitioner and the respondent No. 2 jointly made a prayer under Section 147 of the Negotiable Instruments Act, 1881 read with Section 359 (8) of the Bharatiya Nagarik Suraksha Sanhita, 2023, stating that the respondent No. 2/complainant on 10.10.2023 received the amount of Rs. 4,00,000/- from the petitioner to his full and final satisfaction against the Cheque No. 087518 dated 12.08.2011 issued by the petitioner relating to said C.R. No. 307/2011 involved in this criminal revision petition and as such, both of them have jointly submitted that the impugned judgment dated 05.01.2018 passed by the learned Additional Chief Judicial Magistrate, Tezpur in C.R. No. 307/2011 as well as the judgment dated 29.06.2018 passed by the Additional Sessions Judge (FTC), Sonitpur, Tezpur in Criminal Appeal No. 05 (S-1)/2018 be set aside and quashed.
- 9.** Since the complainant/respondent No. 2 received the amount of Rs. 4,00,000/- from the petitioner/accused on 10.10.2023 to his full and final satisfaction pertaining to the cheque involved in said C.R. No. 307/2011 and both the petitioner and the respondent No. 2 have amicably settled their dispute outside the Court that has been placed before the Court by filing the connected I.A.(Crl) No. 753/2024, considering the same the impugned judgment dated 05.01.2018 passed by the learned Additional Chief Judicial Magistrate, Tezpur in C.R. No. 307/2011 as well as the judgment dated 29.06.2018 passed by the learned Additional Sessions Judge (FTC), Sonitpur, Tezpur in Criminal Appeal No. 05 (S-1)/2018 are set aside and quashed.
- 10.** Interim order passed earlier on 14.09.2018 stands merged with this order.
- 11.** Accordingly, this criminal revision petition as well as the connected I.A.(Crl) No. 753/2024 stands allowed to the extent above.

12. Registry shall communicate this order to the Courts of the learned Additional Chief Judicial Magistrate, Tezpur and the learned Additional Sessions Judge (FTC), Sonitpur, Tezpur forthwith.

JUDGE

Comparing Assistant