

GAHC010207892024



2024:GAU-AS:12451

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

Case No. : Crl.Rev.P./403/2024

ASHRAFUL ISLAM
S/O ABU TAHER MIAH
VILL- SHAWRACHORA
P.S. KALGACHIA
DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP, ASSAM

2:PROHLAD BORGOHAIN
SUB-INSPECTOR

KALGACHIA POLICE STATION

DIST. BARPETA
ASSAM
PIN-78131

Advocate for the Petitioner : MR. R ALI, MR. R ISLAM, MR H A AHMED

Advocate for the Respondent : PP, ASSAM,

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

10.12.2024

Heard Mr. H. A. Ahmed, learned counsel for the petitioner. Also heard Mr. R. J. Baruah, learned Additional Public Prosecutor for the State respondent.

This application is filed under Section 438/442 *read with* Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, challenging the impugned Order dated 21.08.2024, passed by the learned Additional Chief Judicial Magistrate, Barpeta, in Kalgachia P.S. Case No. 94/2024, whereby, the prayer of the petitioner for zimma was rejected.

It is submitted by the learned counsel for the petitioner, Mr. Ahmed, that the present petitioner is the genuine purchaser of the cattle that were seized in connection with this case. However, his prayer for zimma was rejected by the learned Trial Court with the observation that he never appeared before the Investigating Officer (I.O) seeking zimma of the seized cattle.

In this context, Mr. Baruah, learned Additional Public Prosecutor, has submitted that, according to the report of the I.O, the money receipts produced by the petitioner were found to be genuine after an enquiry by the concerned IO. However, he submits that the genuine purchaser or owner has never appeared before the IO. Therefore, it remains unclear whether the person seeking zimma of the cattle is the genuine owner or not. Thus, the ownership is disputed.

Upon hearing the submissions made by the learned counsels for both sides, and after perusing the case record and the report submitted by the IO, it is seen that, following an enquiry, the I.O found that all the money receipts produced by the petitioner are genuine. On perusal of the receipts, it is also seen that the name of the

purchaser is written as Ashraful Islam, i.e., the present petitioner. Although the petitioner did not appear before the I.O seeking zimma of the cattle (s), it is seen that the case has already been charge-sheeted. Therefore, the accused/petitioner is hereby directed to appear before the learned Trial Court with a fresh zimma petition. Considering the fact that the receipts produced are genuine, the learned Trial Court will pass an order on zimma after proper verification and identification of the person/petitioner who has sought zimma of the cattle.

With above observation, this criminal revision petition stands disposed of.

The report submitted by the I.O. may be kept as part of the record.

JUDGE

Comparing Assistant