

GAHC010219662023



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

Case No. : Crl.L.P./41/2023

BIREN SARMA
S/O LT. JAYDEV SARMA,
R/O RANGIA TOWN, P.O. AND P.S.- RANGIA, DIST.- KAMRUP (ASSAM).

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY ITS PUBLIC PROSECUTOR.

2:NRIPEN CHANDRA BANIA
S/O LT. PRASANNA BANIA
EMPLOYEE OF NF RAILWAY
RANGIA RANGIA RAILWAY DIVISION
RANGIA
UNDER SS POINTSMAN

R/O RANGIA RAILWAY QUARTER NO- 1039 F
NEW COLONY
RANGIA
P.O. AND P.S.- RABGIA
DIST.- KAMRUP (M)
ASSAM
PIN- 781354.

3:MINA BANIA
W/O SRI NRIPEN CHANDRA BANIA

R/O RANGIA RAILWAY QUARTER NO- 1039 F
NEW COLONY
RANGIA
P.O. AND P.S.- RABGIA
DIST.- KAMRUP (M)

ASSAM
PIN- 781354

Advocate for the Petitioner : MR. S SAHU

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 30-05-2024

Heard Mr. S. Sahu, learned counsel for the petitioner, Ms. A. Begum, learned Additional Public Prosecutor, Assam for the respondent State and Ms. P. Borah, learned counsel for the respondent Nos. 2 and 3.

2. The petitioner has filed this application under Section 378 (4) of the Code of Criminal Procedure, 1973 with prayer for leave to file a Criminal Appeal against the judgment and order dated 17.02.2022 passed in Criminal Appeal No. 07/2019 by the learned Additional Sessions Judge, Rangia, Kamrup wherein the learned Appellate Court has reversed the judgment and order dated 22.04.2019 passed by the learned Sub-Divisional Judicial Magistrate (M), Rangia, Kamrup in CR Case No. 05 NI/2016 by acquitting the respondent Nos. 2 and 3, who have been convicted by the learned Trial Court in connection with the abovementioned CR Case No. 05 (NI)/2016.

3. I have considered the submissions at the bar with circumspection.

4. It is submitted on behalf of the petitioner that the learned Appellate Court has erred by acquitting the accused on conjectures and surmises.

5. Considering all aspects, petition for special leave to file Criminal Appeal is

hereby allowed.

6. Office to register the connected appeal.
7. In the above terms this Criminal Leave Petition stands disposed of.

JUDGE

Comparing Assistant