

GAHC010223952024



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

Case No. : Crl.Rev.P./422/2024

HASIBUB SHEIKH
S/O MD KOYSER ALI, VILL AND P.O.-LAKHIGANJ, SOKAPARA, P.S.-
DHUBRI, DIST- DHUBRI, ASSAM, PRESENT ADDRESS- HOUSE NO. 447,
CHANEKI PATH, BHAGARBARI-SATGAON ROAD, P.S.-SATGAON, DIST-
KAMRUP (M), ASSAM

VERSUS

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

2:MD SAFED ALI
S/O NOUSAD ALI
VILL AND P.O.-SANIADI
P.S.-HAJO
DIST- KAMRUP (R)
ASSAM. PRESENT ADDRESS - SIX MILE
NEAR SAI BABA MANDIR
P.O.-SIXMILE
P.S.-DISPUR
DIST- KAMRUP (M)
ASSAM
PIN

Advocate for the Petitioner : MR. A WAHAB, MR A AHMED,U U KHAN,MR. A AHMED

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI**

ORDER

Date : 29.10.2024

Heard Mr. A.Ahmed, learned counsel for the petitioner and Mr. B.Sarma, learned Additional Public Prosecutor for the State respondent No.1.

By filing this application under Section 438/442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 the petitioner has prayed for setting aside and quashing of the impugned order dated 26.09.2024 passed by the learned JMFC, Kamrup (M), Guwahati in C.R. Case No.4172^c/2016 whereby the evidence of DW was closed fixing the matter for argument.

Learned counsel for the petitioner submits that vide the impugned order dated 26.09.2024, the learned trial court closed the evidence of DW as the petitioner remained absent. However, the petitioner now prays that one more chance may be given to the petitioner to adduce DWs in connection with the aforesaid case.

Learned Addl.P.P. on the other hand submits that on the date of passing of the order i.e. on 26.09.2024, the complainant as the well as the petitioner remained absent before the trial court with steps. However, the petitioner may be given a chance before the learned trial court to adduce evidence for further DWs.

I have heard learned counsel for the parties and also perused the orders of the trial court.

From the order of the trial court, it reveals that DW-1 was examined on 04.11.2023 and the next date was fixed on 29.01.2024 for further DW.

Thereafter, the petitioner failed to produce his witness for five consecutive dates i.e. on 29.02.2024, 02.05.2024, 02.07.2024, 19.08.2024 and 26.09.2024. However, considering the submission of the petitioner, one more chance is given to the petitioner to adduce evidence of DW before the learned trial court. Hence, order dated 26.09.2024 is set aside.

It appears from the record that the case is pending before the trial court since 2016 and as such, learned trial court is directed to fix the matter for DW by giving one chance to the accused/ petitioner to adduce evidence. After closure of the evidence and hearing of the argument, the matter be disposed of within two months from the date of receipt of a certified copy of this order.

The criminal revision petition stands disposed of.

JUDGE

Comparing Assistant