

GAHC010234702013



2024:GAU-AS:7710

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

Case No. : Crl.A./254/2013

WAHAB ALI
S/O LATE RUSTAM ALI, R/O VILL. BALIGAON, P.O. HABI BORONGABARI,
P.S. MIKIRBHETA, DIST. MORIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM,

Advocate for the Petitioner : MR.M AHMED, MR P KATAKI,MR.S C BISWAS,MRT
RAJBONSHI,MR.S RAHMAN

Advocate for the Respondent : , ,PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

08-08-2024

Heard Mr. S. C. Biswas, learned counsel appearing for the appellant and Mr. K. Baishya, learned Additional Public Prosecutor, Assam for the State.

2. By the judgment dated 26.07.2013, passed by the learned Sessions Judge, Morigaon in Sessions Case No.77/2011 arising out of Morigaon P.S. Case No.150/2010, corresponding to G.R. No.1266/2011 convicted the appellant under Section 354/354B IPC and sentenced

him to suffer Rigorous Imprisonment for 1 year with fine of Rs.1,000/- under Section 354 IPC, in default of payment of fine to undergo R.I. for another one month and further to suffer R.I. for 5 years with fine of Rs.5,000/- under Section 354B IPC, in default of payment of fine to undergo R.I. for a period of 3 months.

3. The incident occurred on 08.12.2010 and Section 354B IPC was brought into force by amendment of IPC w.e.f., 02.03.2013.

4. The appellant is accordingly convicted under Section 354 IPC.

5. It is seen that during investigation the appellant evaded arrest and later surrendered after filing of the chargesheet in said Morigaon P.S. Case No.150/2010. It is also seen from the records of the case that during trial of the case, the appellant was on bail. Only after passing of the impugned judgment of conviction and sentence dated 26.07.2013, the appellant was taken into custody and since then, he was in jail served the sentence upto 19.02.2014, as after filing of this appeal, on the prayer of the appellant, the Court by order dated 19.02.2014, passed in the connected Criminal Miscellaneous Case No. 941/2013 filed in this criminal appeal granted bail to the appellant. As such, the appellant was in jail serving the sentence for about 6 months 29 days.

6. The period undergone by the appellant for about 6 months 29 days is considered to be sufficient for committing the offence under Section 354 IPC, but he has to deposit Rs.1,000/- as fine to the Court of learned Sessions Judge, Morigaon, which he has not yet deposited.

7. The appellant shall forthwith deposit the said amount of Fine of Rs.1,000/- before the Court of learned Sessions Judge, Morigaon forthwith.

8. Subject to payment of said fine by the petitioner as directed above, the Bailor would stand discharged.

9. As this order has been passed in presence of Mr. S. C. Biswas, learned counsel for the appellant, no formal notice need be issued to the convicted accused.

10. Failure on the part of the appellant to deposit the said Fine of Rs.1,000/- before the Court of learned Sessions Judge, Morigaon by the appellant Md. Wahab Al, son of late

Rustom Ali in said Sessions Case No. 77/2011, arising out of Morigaon P.S. Case No.150/2010, the said Court shall be at liberty to take necessary action against the said appellant in accordance with law to recover the said fine amount.

- 11.** With the above observation and direction this appeal is allowed to the extent above.
- 12.** Registry shall return the record of Sessions Case No. 77/2011 (State Vs. Md. Wahab Ali) arising out of Morigaon P.S. Case No.150/2010, corresponding to G.R. No.1266/2011 to the Court of learned Sessions Judge, Morigaon along with a copy of this order at the earliest.

JUDGE

Comparing Assistant