

GAHC010236682024



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

Case No. : Crl.Rev.P./453/2024

BHASKAR GOGOI
S/O LATE BADAN GOGOI
R/O 1 NO. KESUKHONA MISAMARI
P.S. DHEMAJI
P.O. DHUBABARI
DIST. DHEMAJI, ASSAM
PIN-787058

VERSUS

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

2:M/S MIDAS HATCHERY
SITUATED AT SAHID KHAGESWAR BAZAR
PARBOTIA ROAD
NEAR ASEB
P.O. AND P.S. TINSUKIA

DIST. TINSUKIA
ASSAM
PIN-78612

Advocate for the Petitioner : MR H BARUAH, MR P P PHUKAN

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 20-11-2024

Heard Mr. H. Baruah, the learned counsel for the petitioner and also heard Mr. M.P. Goswami, the learned Addl. PP appearing for the State respondent.

This is an application u/s 438 of the BNSS, 2023 read with Sections 442/528 for quashing and setting aside the impugned orders dated 21.05.2024, 07.08.2024 and 17.09.2024 passed by learned Additional Chief Judicial Magistrate, Tinsukia in connection with N.I. Case No. 24/2018 (proceeding u/s 138 of the Negotiable Instruments Act, 1881) whereby the learned Court below issued NBWA as well as P&A respectively against the petitioner.

It is submitted by Mr. Baruah, learned counsel for the petitioner that due to his illness only he could not appear before the learned Trial Court below but earlier he was appearing and the case was also at the stage of evidence. For his sickness he even could not contact with his counsel and that is why he could not appear before the learned Trial Court below. However at present he is ready and is willing to appear before the learned Trial Court below and also ready to pay the entire cheque amount in question. Further it is submitted that one more chance should be given to the present petitioner to appear before the learned Trial Court below.

Mr. Goswami, the learned Addl. PP submitted in this regard that he may be directed to appear before the learned Trial Court below but the orders cannot be quashed as the Court has already issued the P&A against the present petitioner.

In view of the entire submissions made by the learned counsel and also considering the submission made by Mr. Baruah that there is a probability of

compromise as he is ready to pay the entire cheque amount, it is the opinion of the Court that the petitioner may given one more chance to appear before the learned Court below and on his request the petitioner is accordingly directed to appear before the learned Trial Court below immediately within 15 days from the date of order and till then the execution of NBWA may be stayed and in the event he does not appear before the learned Trial Court the order will stand vacated.

The criminal revision petition stands disposed of at the motion stage.

JUDGE

Comparing Assistant