

GAHC010255442023



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

Case No. : Crl.Pet./1216/2023

MD. SAYED ALI MUNCHI
S/O LATE HAJI NAHER ALI
R/O VILL- BALIDUNGA,P.S. BHURAGAON,
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM ANR
REP. BY THE PP, ASSAM

2:AKBAR ALI
S/O ALI MUDDIN
R/O BALIDUNGA
P.S. BHURAGAON

DIST. MORIGAON
ASSA

Advocate for the Petitioner : MR. M K DAS (LEGAL AID COUNSEL), MS. M K BROWN
(LEGAL AID COUNSEL)

Advocate for the Respondent : PP, ASSAM, MR. P SAIKIA (LEGAL AID COUNSEL FOR R-2)

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

29/07/2024

Heard Ms. M K Brown, learned Legal Aid Counsel for the petitioner and Mr. K Baishya, learned Additional Public Prosecutor, Assam for the State respondent No. 1.

The petitioner herein was an accused in POCSO Case No. 145/2021 arising out of Bhuragaon P.S. Case No. 112/2021 pending before the Court of learned Special Judge (POCSO), Morigaon wherein charge under Sections 376AB/302/201 IPC read with Section 6 of the POCSO Act, 2012 was framed against him by order dated 24.09.2021 passed by the learned Special Judge (POCSO) Morigaon. The accused was in jail custody.

In this criminal petition, the accused petitioner prayed amongst others to set aside and quash the impugned orders dated 14.12.2022, 28.12.2022 and 02.05.2023 passed by the learned Special Judge (POCSO), Morigaon in said POCSO Case No. 145/2021.

The petitioner preferred this criminal petition on 10.11.2023 and the Court by order dated 16.11.2023 issued notice and in the interim stayed the further proceeding of said POCSO Case No. 145/2021 pending before the Court of the learned Additional Sessions Judge cum Special Judge (POCSO), Morigaon till the returnable date.

The petitioner is represented by the Legal Aid Counsel.

After the order dated 16.11.2023, the matter was taken up for consideration on 01.04.2024, but the petitioner remained unrepresented. Thereafter, the matter was again listed on 24.06.2024 and on the said date also the petitioner remained unrepresented.

Matter was last listed on 19.07.2024 and even on the said date, i.e., on 19.07.2024, the petitioner remained unrepresented and from the order sheet of the case, it was found that since 01.04.2024, the Court did not extend the interim order passed earlier on 16.11.2023.

It is placed by Ms. Brown, learned Legal Aid Counsel that on receipt of the communication from the Superintendent of District Jail, Morigaon that the petitioner, Sayed Ali Munchi @ Patha, accused in said POCSO Case No. 145/2021 expired on 22.07.2024 at 6.45 PM, the learned Additional Sessions Judge cum Special Judge (POCSO), Morigaon took up the said POCSO Case No. 145/2021 on 23.07.2024.

Considering the said intimation from the Superintendent of District Jail, Morigaon, the learned Additional Sessions Judge cum Special Judge (POCSO), Morigaon by its order dated 23.07.2024 abated the said case against the accused, i.e., the present petitioner and accordingly, disposed of the said POCSO Case No. 145/2021.

Ms. Brown, learned Legal Aid Counsel obtained the said information from the status of the orders uploaded by the learned Additional Sessions Judge cum Special Judge (POCSO), Morigaon in its e-Courts Services and placed a copy of the same before the Court today while deliberating the matter.

As the accused petitioner, Sayed Ali Munchi @ Patha, son of Late Haji Naher Ali, has already expired and the learned Additional Sessions Judge cum Special Judge (POCSO), Morigaon by its order dated 23.07.2024 has abated the said POCSO Case No. 145/2021 against the accused, this criminal petition, being infructuous, stands dismissed.

The assistance provided by Ms. M K Brown, learned Legal Aid Counsel is appreciated.

The Gauhati High Court Legal Service Committee shall pay the remuneration to Ms. M K Brown, learned Legal Aid Counsel of this case on raising a bill.

Copy of the status of the order dated 23.07.2024 passed by the learned Additional Sessions Judge cum Special Judge (POCSO), Morigaon, in POCSO Case No. 145/2021 placed before the Court today by Ms. M K Brown, learned Legal Aid Counsel be kept as a part of the record.

JUDGE

Comparing Assistant