

GAHC010258112023



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

Case No. : Crl.Rev.P./489/2023

RINA TERANGPI
W/O LATE SODAR PHANGCHO
D/O KHORN SING TERANG
R/O MATIPUNG, DIPHU
P.O. DIPHU
P.S. DIPHU
DIST. KARBI ANGLONG, ASSAM
PIN NO. 782460

VERSUS

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

Advocate for the Petitioner : MR. N K MURRY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

19.01.2024

Heard Mr. N K Murry, learned counsel for the petitioner as well as Mr. D. Das, learned Additional Public Prosecutor, Assam.

This is an application filed under Section 397 CrPC challenging the order dated 07.11.2023

passed by the learned Special Judge, NDPS, Diphu, Karbi Anglong, Assam in NDPS Case No. 46/2023.

A vehicle bearing Registration No. AS-09-J-3573 (TVS NTORQ) was seized in connection with Barlangfer P.S. Case No. 09/2023 registered under Section 22(b) of NDPS Act.

The said police case was ultimately chargesheeted and thereafter, the petitioner filed an application before the trial court seeking custody of the seized vehicle.

In a single line order, the trial court referred to Section 60 of the NDPS Act and the prayer for custody of the vehicle was rejected.

I have heard the learned counsel for both the sides. Section 60 (3) of the NDPS Act says that if the petitioner proves that the vehicle was used for illegal purpose without his knowledge then the trial court can have a favourable view in favour of the petitioner.

The impugned order referring to the legislative intent of the Section 60 of the NDPS Act simply dismissed the application. This court is of the opinion that the impugned order is a cryptic one. This court is also of the opinion that the learned trial court failed to exercise judicial mind while entertaining the aforesaid application.

Therefore, the impugned order 07.11.2023 passed by the learned Special Judge, NDPS, Diphu, Karbi Anglong, Assam in NDPS Case No. 46/2023 is set aside. The trial court is directed to pass a fresh order in the light of the observation made by this court.

The criminal revision petition stands disposed of.

JUDGE

Comparing Assistant