

GAHC010267282024



2024:GAU-AS:12948

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

Case No. : Crl.Rev.P./507/2024

MONOWAR HUSSAIN AND ANR.
S/O LT. NASAB UDDIN
R/O VILL- SREEGRAM PT. VI(BORGOLA), P.S. CHAPAR,
DIST. DHUBRI, ASSAM

2: KUZRAT ALI SHEIKH @ KUJRAT ALI
S/O LT. TOSER UDDIN
R/O VILL- AREARJHAR PT. II
(CHAKCHAKA)
P.S. CHAPAR

DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM AND ANR.
TO BE REP. BY THE LEARNED PP, ASSAM

2:MD. JOYNAL SHEIKH
S/O LT. JUBBAR SHEIKH
R/O VILL- CHAKCHAKA
BORGHOLA
P.S. CHAPAR

DIST. DHUBRI
ASSA

Advocate for the Petitioner : MR SARFRAZ NAWAZ, MR. SURAJIT DAS,MD A
RAHMAN,SAMIM RAHMAN,MS SURAYA RAHMAN,MR A W AMAN

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

19.12.2024

Heard Mr. S. Nawaz, learned counsel for the petitioners. Also heard Ms. S. H. Borah, learned Additional Public Prosecutor for the State respondent.

2. This revision petition is filed under Section 438 and 442, *read with* Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying for the setting aside and quashing of the order dated 13.11.2024 passed by the learned Additional Sessions Judge, Bilasipara, in Sessions Case No. 43/2000, wherein the plea of juvenility of the present petitioners was rejected.

3. It is submitted by Mr. Nawaz, learned counsel for the petitioners, that the present petitioners were juveniles at the relevant time of the incident. Accordingly, at the stage of recording of D.W., the petitioners took the plea of juvenility and filed a petition before the learned Trial Court along with some relevant documents to show that, at the time of the incident, they were juveniles. To substantiate their plea of juvenility, petitioner No. 1 produced the SEBA Admit Card along with the SEBA (Assam High Madrassa) Certificate for repeaters Examination, 2020, and petitioner No. 2 produced the SEBA Admit Card and School Leaving Certificate before the trial court.

However, the said court, vide order dated 13.11.2024, rejected the prayer of juvenility with the observation that the signature of the examination controller on the Admit Cards issued by the Board of Secondary Education, Assam, was completely illegible. It was also noted that the certificate issued by the Board of Secondary Education, Assam, for petitioner No. 1, Monowar Hussain, was based

solely on the Admit Card. Moreover, the School Certificate produced by petitioner No. 2, Kuzrat Ali Sheikh, was procured only on 23.09.2023, which raised reasonable doubts in the mind of the trial court regarding the genuineness of the plea of juvenility. Based on these observations, the prayer was rejected.

4. He further submits that, as per the provision of Section 7A of the Juvenile Justice Act, 2000, the learned Trial Court can make an inquiry regarding juvenility. Accordingly, he submits that further inquiry can be made by the learned trial court by calling the register from the office of the Board of Secondary Education, Assam to verify whether the documents/admit cards produced before the trial court are genuine or forged.

5. In this regard, Ms. S. H. Borah, learned Additional Public Prosecutor, has submitted that the learned Trial Court may be directed to make further inquiry regarding the juvenility of the petitioners, and accordingly, directions may be given.

6. After hearing the submissions made by the learned counsels for both sides, I have perused the documents, i.e., the Admit Cards, Pass Certificate, School Leaving Certificate, etc. The original documents are also produced by the learned counsel for the petitioners. It is seen that the signature of the controller of examination may not be legible, but the plea of juvenility cannot be rejected solely on this basis, especially when both petitioners have produced Admit Cards, which are considered to be the relevant documents for determining age.

7. In view of above, I find it proper to set aside the order dated 13.11.2024 regarding the rejection of the plea of juvenility. Accordingly, the learned Additional Sessions Judge, Bilasipara, is directed to conduct further inquiry

regarding juvenility by calling the register from the Board of Secondary Education, Assam or from the concerned officer, as deemed fit by the trial court.

8. With the above observation, this Criminal Revision Petition stands allowed and disposed of.

JUDGE

Comparing Assistant