

GAHC010273442024



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

Case No. : Crl.Rev.P./511/2024

MD ABDUL KASEM
S/O ABDUL KHALIQUE
PERMANENT RESIDENT OF VILLAGE SINGARI UNDER JURIA POLICE
STATION, DIST NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY PP ASSAM

Advocate for the Petitioner : MR. U CHOUDHURY, MR. B M CHOUDHURY

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

19.12.2024

Heard Mr. B M Choudhury, learned counsel for the petitioner and Mr. D P Goswami, learned Additional Public Prosecutor, Assam.

This is an application filed under Section 442 read with Section 438 of the BNSS, 2023 challenging the order dated 25.11.2024 passed in Sessions (T-1) Case No. 58/2018 by the learned Additional Sessions Judge No. 3, Nagaon, Assam.

The petitioner is facing trial before the court below. On 02.11.2024, the petitioner filed an application stating that he would be examining himself and two other witnesses. The prayer of the

petitioner was allowed by the court below. Thereafter, on 25.11.2024, the petitioner was present in the court and the court had held that the petitioner failed to produce defence witnesses.

I have considered the submission made by the learned counsel of both sides. While performing judicial works, Judges are to apply to judicial mind. It is the duty of the Judges to administer justice to others. The impugned order shows that though the petitioner was present in the court, the court presumed that no defence witnesses had turned up on the day. The court should have enquired whether the petitioner brought witnesses or not.

Therefore, the impugned order dated 25.11.2024 passed in Sessions (T-1) Case No. 58/2018 by the learned Additional Sessions Judge No. 3, Nagaon, Assam is bad in law and accordingly, the same is set aside and quashed.

The trial court is directed to provide opportunity to the petitioner to examine himself and his witnesses as defence witnesses.

With the above, the criminal revision petition is disposed of.

JUDGE

Comparing Assistant