

GAHC010294592023



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

Case No. : Crl.Rev.P./263/2024

MAIJAL HAQUE
S/O LATE DALIBUDDIN, R/O VILL.-SILBARI, P.O.-JALABIL, P.S.-
BAGRIBARI, DIST.-KOKRAJHAR, ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY THE P.P., ASSAM.

Advocate for the Petitioner : MR P K DAS

Advocate for the Respondent :

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

26-07-2024

Heard Mr. P. K. Das, learned counsel for the petitioner and Mr. P. S. Lahkar, learned Additional Public Prosecutor, Assam for the State.

2. On the basis of specific information, on the night of 16.04.2023 police personnel from Bagribari police station in the district of Kokrajhar while making search on the same night itself recovered 11 numbers of stolen cows inside the jungle nearby the house of Jagir

Hussain and Shirdul, who managed to escape from the said place taking the advantage of darkness. After recovering those 11 cows, those were taken forthwith for their proper medical treatment and for their proper shelter. Police from Bagribari police station after taking necessary steps, lodged an FIR on 18.04.2023 relating to the said incident. On the basis of the said FIR Bagribari P.S. Case No. 48/2023 under Sections 379/411/34 IPC read with Section 13 (1) of the Assam Cattle Preservation Act, 2021 was registered corresponding to G.R. No.298/2023.

3. The petitioner filed an application for zimma of 4 cows out of those 11 cows stating that out of those, 4 cows were seized from his house that were legally bought by him from one Bahiat Ali on 10.02.2023 and 01.04.2023 for farming by executing sale agreement. The petitioner also stated that he is not a named accused in the FIR relating to Bagribari P.S. Case No. 48/2023. But the learned Sub-Divisional Judicial Magistrate (Sadar), Kokrajhar by order dated 28.08.2023 rejected his application for zimma of those 4 cows out of 11 cows seized by Bagribari police relating to Bagribari P.S. Case No. 48/2023.

4. Hence, this revision petition by the petitioner.

5. Section 12 of the Assam Cattle Preservation Act, 2021 provides for appeal against any order passed by the learned Magistrate under Sections 7 and 11 of the said 2021 Act before the learned Sessions Judge having jurisdiction in which the property, to which such order relates, has been seized. Section 12 of the said 2021 Act, reads as follows:--

“Section 12

Appeals

(1) Any person aggrieved by any order passed under section 7 and section 11 may, within thirty days from the date of receipt of such order appeal to the Sessions Judge having jurisdiction over the area in which the property, to which such order relates, has been seized.

(2) The Sessions judge may, after giving the persons affected a reasonable opportunity of being heard, pass such order as it deems fit.”

6. In the case in hand, after rejection of zimma by the learned SDJM (S), Kokrajhar by order dated 28.08.2023 relating to 4 cows out of 11 cows that were seized in Bagribari P.S. Case No. 48/2023, the petitioner without resorting to provisions of appeal as specified in Section 12 of the said 2021 Act, preferred this criminal revision petition, against the said

order dated 28.08.2023, passed by the learned SDJM (S), Kokrajhar.

- 7.** Accordingly, this criminal revision petition, being not maintainable, stands rejected.
- 8.** Petitioner may approach the appropriate forum as per law, if so advised.

JUDGE

Comparing Assistant