

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. A(J) 58/2025

Mr. Sunday Nnamdi Ikejide @ Sunday Nnamdi @ Onyebuchi Keneth, son of Onyebuchi Ngwu, resident of Ketu Lagos, Enugu State, Nigeria;

----Convict-Appellant

Versus

The State of Tripura

----Respondent

For the Appellant(s) : Mr. AT Paul, Advocate

For the Respondent(s) : Mr. Raju Datta, PP

Date of hearing & delivery
of Judgment & Order : **12.03.2026**

Whether fit for reporting : **No**

**BEFORE
HON'BLE JUSTICE DR. T. AMARNATH GOUD
JUDGMENT & ORDER(ORAL)**

Heard Mr. AT Paul, learned Counsel appearing for the appellant also heard Mr. Raju Datta, learned Public Prosecutor, appearing for the respondent-State of Tripura.

2. The appellant, by means of filing the present appeal has challenged the Order of conviction and sentence dated 20.05.2025 passed by the learned Additional Sessions Judge, Gomati District, Udaipur, in connection with case No. Sessions Trial (T-II) 10 of 2025, wherein the appellant was convicted for commission of offence punishable under 14(A) of Foreigners Act and was sentenced to suffer rigorous imprisonment for two years and to pay a fine of Rs.1,00,000/- with default stipulation; further the appellant was convicted under Section 3 of the Passport Amendment Act, 2000, and was sentenced to suffer rigorous imprisonment for a period of three months and to pay a fine of Rs. 30,000/-, with default stipulation.

3. The prosecution case, is that, on 24.01.2025 evening at around 21.15 hrs. the complainant along with the GRP staffs were performing their

duty at Udaipur Rail Station. During that time, it came to the notice that one person was suspiciously loitering around the Udaipur Railway station near platform no.1, and on seeing his suspicious movement the GRP staffs detained him at Udaipur Railway Station and accordingly interrogated him thoroughly to seek his real identity. After prolonged interrogation, the convict appellant confessed that he is citizen of Nigeria and he came to India in 2024 by flight and spotted in Mumbai Airport and thereafter he went to Delhi by Train and stayed there for 8 months. On 24.01.2025 he came to Tripura from Delhi by train and vide Kanchanjhangha express, he reached Udaipur from Agartala by holding a train ticket which was booked at the destination of Sabroom. On being asked he stated that he came to Tripura for meeting his sister at Sabroom but could not produce any valid passport or documents in support of his entry into Indian Territory. Thereafter the complainant lodged a written complaint with the Officer-in-Charge of RK Pur PS which was registered as RK Pur PS case No. 2025 RKP 047, under sections 143(3) BNS, 2023, and section 3 of the Passport (Entry into India) Amendment Act, 2000 and Section 14A of the Foreigners Act, 1946.

4. After completion of investigation, the I.O has submitted charge-sheet against the appellant on 01.03.2025. On receipt of the charge-sheet, learned trial Court framed charge against the appellant, to which he pleaded guilty and declined to stand trial. Since, the appellant has pleaded his guilt, learned trial Court finding him guilty of the alleged offence, convicted the appellant, as stated *supra*.

5. Mr. Paul, learned counsel appearing for the appellant has submitted that the appellant has been languishing in custody since his arrest. Learned counsel further submitted that the appellant has not misrepresented

his identity and has pleaded his guilt, and thus, learned counsel urged this Court to reduce his sentence as of he has already suffered.

6. On the other hand Mr. Raju Datta, learned PP appearing for the State-respondent has submitted that appellant has overstayed in the territory of India without following certain conditions of extending the VISA and the punishment imposed upon the appellant is on minimum side, which requires to be maintained.

7. This Court has considered the submissions of learned counsel appearing for the parties, and has perused the records.

8. Section 14 of Foreigners Act, deals with penalty for contravention of provisions of the Act shall be punished with imprisonment for a terms which may extend to five years and shall also be liable to fine. Section 14(A) of the Foreigners Act, deals with punishment for entering or staying in India without valid documents, or staying beyond the permitted period. Section 3 of the Passport Amendment Act, 2000, deals with punishable with imprisonment for a term which may extend to three months, or with fine, or with both", the words "punishable with imprisonment for a term which may extend to five years". In Section 3 of the Passport (Entry into India) Act, 1920 (34 of 1920) (hereinafter referred to as the principal Act), in sub-section (3), for the words "punishable with imprisonment for a term which may extend to three months, or with fine, or with both", the words "punishable with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both" shall be substituted. After Section 3 of the principal Act, the following section shall be *inserted*, namely "3-A. *Punishment for subsequent offences.*-Whoever having been convicted of an offence under any rule or order made under this Act is again

convicted of an offence under this Act shall be punishable with double the penalty provided for the later offence."

Now it would be apposite to reproduce Section 14 and Section 14(A) of the Foreigners Act, which reads thus:

"14. Penalty for contravention of provisions of the Act, etc. —

Whoever. —

(a)remains in any area in India for a period exceeding the period for which the visa was issued to him;

(b)does any act in violation of the conditions of the valid visa issued to him for his entry and stay in India or any part thereunder;

(c)contravenes the provisions of this Act or of any order made thereunder or any direction given in pursuance of this Act or such order for which no specific punishment is provided under this Act, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine; and if he has entered into a bond in pursuance of clause (f) of sub-section (2) of section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the convicting Court why such penalty should not be paid by him.

Explanation. — For the purposes of this section, the expression "visa" shall have the same meaning as assigned to it under the Passport (Entry into India) Rules, 1950 made under the Passport (entry into India) Act, 1920 (34 of 1920).

"14A. Penalty for entry in restricted areas, etc.-

Whoever-(a)enters into any area in India, which is restricted for his entry under any order made under this Act, or any direction given in pursuance thereof, without obtaining a permit from the authority, notified by the Central Government in the Official Gazette, for this purpose or remains in such area beyond the period specified in such permit for his stay; or(b)enters into or stays in any area in India without the valid documents required for such entry or for such stay, as the case may be, under the provisions of any order made under this Act or any direction given in pursuance thereof, shall be punished with imprisonment for a term which shall not be less than two years, but may extend to eight years and shall also be liable to fine which shall not be less than ten thousand rupees but may extend to fifty thousand rupees; and if he has entered into a bond in pursuance of clause (f) of sub-section (2) of section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid by him."

9. Every country, in its laws provides restrictions on entry of foreigners into such country regulating their stay in the country for the period permitted. Measures governing the foreigners are found in the Foreigners Act, 1946, which provides expulsion of foreigners, whose entry into India is unauthorized or whose permit for stay in India has expired. A court convicting a foreigner for his illegal entry or his overstay in India has a duty to direct for requisite steps for deportation of such foreigner unless requisite permit to stay in India is granted by the competent Authority. If a Foreign National entering into the Indian Territory continues to stay in the country even after the lapse of the period prescribed in his Visa has to be considered an illegal migrant and

be strictly brought under the law. Here, in this case, the convict-foreigner after his detention has voluntarily pleaded his guilt regarding overstaying in the territory of India which act tentamounts to violation of the prevalent sections under Foreigners Act and Passport Act. It cannot, therefore, be said that the Court convicting the convict-foreigner for an offence under Section 14-A of the Foreigners Act committed an illegality.

10. After appreciation of the evidences and record in hand, the learned trial court taking the recourse of Section 14(A) of Foreigners Act and Section 3 of the Passport Amendment Act, 2000, and also taking a leniency view has imposed minimum sentence upon the convict-foreigner.

11. Though the punishment under Section 14(A) of Foreigners Act for entering into India land without valid travel documents impose a punishment upto five years, and the trial court has accordingly imposed conviction and sentence of only two years with default stipulation. In the present case, the petitioner entered India with valid document, but overstayed which is also contravention of law and is punishable and the same is evident and cannot be disputed and not disputed. Thus, now to punish the accused, the relevant provision is Section 14 of the Foreigners Act, which deals with overstay. The punishment may extend to five years.

12. It is obvious that the convict-foreigner without extension of VISA or any other permit had overstayed in the territory of India even after expiry of his permissible period. Even from the record it is not revealed that the convict-foreigner has ever taken any endeavour or has approached any competent authority to extend the period of his VISA. Accordingly, this court is of the view that the Order of conviction and sentence dated 20.05.2025 passed by the learned Additional Sessions Judge, Gomati District, Udaipur, in

connection with case No. Sessions Trial (T-II) 10 of 2025, shall be maintained.

13. With the above observations and direction, the instant appeal stands dismissed. As a sequel, pending application(s), if any, also stands disposed.

Send down the LCRs.

JUDGE



**SAIKAT
KAR**

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