

THE HIGH COURT OF TRIPURA
AGARTALA

CRL.PETN. 30 OF 2015

1. Shri Suhel Miah,
S/O. Shri Khokan Miah.

2. Shri Faruk Miah,
S/O. Late Kanu Miah.

Both are residents of Joypur,
P.S. West Agartala,
District: West Tripura.

..... **Accused Petitioners.**

- V e r s u s -

The State of Tripura.
(Represented by the Secretary-cum-Commissioner),
Deptt. of Home, Government of Tripura,
Agartala, West Tripura.

..... **Respondent.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioners : Mr. R. Paul, Advocate.

For the respondent : Mr. R.C. Debnath, Addl. P.P.

Date of hearing and : 29.07.2015.
delivery of judgment
and order.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

By means of this petition, the petitioners have challenged the judgment dated 20.05.2015 passed by the learned Sessions Judge, West Tripura, Agartala in Criminal Appeal No.15 of 2015 whereby he dismissed the appeal filed by the petitioners herein and upheld the order of the learned Chief Judicial Magistrate, West Tripura, Agartala in Case No.Misc.788 of 2015

convicting the petitioners of having committed an offence punishable under Section 3 of the Indian Passport (Entry into India) Act, 1920 read with Rule 6 of the Indian Passport (Entry into India) Rules, 1950 and sentencing them to suffer Simple Imprisonment for 3(three) months and to pay fine of Rs.10,000/- (rupees ten thousand) each and in default of payment of fine to suffer S.I. for 22 days more.

2. Briefly stated, the facts of the case are that a complaint was filed by the police that the petitioners herein, i.e. Suhel Miah and Faruk Miah along with one Alamin Miah were apprehended in Indian territory after they had crossed into India from Bangladesh and that they had no passports and there was no entry with regard to their entry in India.

3. On 23.03.2015 the accused were supplied with the copy of the charge-sheet and charge was framed against them under Section 3 of the Indian Passport (Entry into India) Act, 1920 read with Rule 6 of the Indian Passport (Entry into India) Rules, 1950. The trial Court explained the charges and it is specifically mentioned in the order that the charges were explained to the petitioners in Bengali. Each of them pleaded guilty and admitted that they had crossed International Border between India and Bangladesh without any valid document like Passport. Accepting their plea of guilt, they were convicted as aforesaid. Later, on the same date, the counsel for the present petitioners filed a bail application to the Court praying that appeal was sought to be filed

against the order. While moving the application, the learned defence counsel stated that the present petitioners Suhel Miah and Faruk Miah claim that they are Indian citizens. He, however, admitted that they had first illegally gone to Bangladesh without any valid documents like visa, passport etc. and had returned to India without any valid documents and, therefore, they cannot be penalized.

4. The learned Chief Judicial Magistrate found that even an Indian citizen can be penalized if he enters the Indian territory from a foreign country without having any valid travel documents such as passport, visa etc. The petitioners filed an appeal to the Sessions Judge who rejected the appeal holding that the petitioners have entered India without any valid documents. The learned Sessions Judge also held that as far as the present petitioners were concerned, there was no order that they should be deported to Bangladesh and also came to the conclusion that the claim of the appellants that they are Indian citizens is contrary to the stand.

5. I am clearly of the view that as far as the admission of guilt was concerned, that was limited to the extent that they had entered into India without valid documents and were guilty of committing an offence under Section 3 of the Indian Passport (Entry into India) Act, 1920 read with Rule 6 of the Indian Passport (Entry into India) Rules, 1950. There is no admission by the petitioners that they are Bangladeshi Nationals. That was a point raised in appeal only. In any event, the criminal Court cannot

decide this issue whether a person is an Indian National or not. That has to be done in separate proceedings.

6. Therefore, this petition is dismissed but it is made clear that the petitioners shall be entitled to raise in appropriate proceedings the issue that they are Indian Nationals which must be decided in accordance with law.

7. The petition is disposed of accordingly.

CHIEF JUSTICE