

**THE HIGH COURT OF TRIPURA
AGARTALA**

CRL. REV. P. 82 of 2015

1. Mr. Rejaual Karim,
s/o Md. Abdul Jalil
of Village-Nikunjara, PS Chagalnaya,
District-Feni, Bangladesh.
2. Md. Masud
of Village-Alipur, P.S. Basepur,
District-Chattagram, Bangladesh

... *Convict-Accused*

Mafiz Miah
s/o Late Dulal Miah
resident of Village-Navadeep, Chandranagar,
P.O. Durgapur, P.S. Sonamura,
Sub-Division Sonamura,
District-Sepahijala, Tripura.

.....*Petitioner*

- Versus -

The State of Tripura

... *Respondent*

**BEFORE
THE HON'BLE MR. JUSTICE U.B.SAHA**

For the petitioner	: Mr. A De, Advocate.
For the respondent	: Mr. A. Ghosh, PP
Date of hearing & delivery of Judgment and Order	: 08.12.2015.
Whether fit for reporting	: NO

JUDGEMENT AND ORDER (ORAL)

This revision petition is directed against the judgment dated 29.10.2015 passed by the learned Additional Sessions Judge, (Court No.3) West Tripura, Agartala in Criminal Appeal 31 of 2015 whereby the learned appellate court has upheld the conviction and sentence passed by the learned Chief Judicial Magistrate, West Tripura, Agartala in case No. Misc. 2087/2015 vide judgment dated 30.09.2015 whereby and whereunder the learned Chief Judicial Magistrate, West Tripura, Agartala

convicted the accused persons for committing offence punishable under Section 3 of the Indian Passport (entry into India) Act, 1920 (as amended in the year 2000) read with Rule 6 of the Indian Passport (entry into India) Rules, 1950 and sentenced to suffer rigorous imprisonment for three months and to pay a fine of Rs.30,000/-, in default of payment of fine money, to suffer further simple imprisonment for one month.

2. Heard Mr. A De, learned counsel appearing for the petitioner as well as Mr. A. Ghosh, learned Public Prosecutor for the State.

3. The prosecution case is that on 15.09.2015 at about 1410 hrs. while Sub-Inspector of police Sri Ranjit Banik of MTF Unit along with his staff was performing mobile duty at Chandrapur bus stand, they noticed that the convict-accused persons were moving suspiciously there. Subsequently they detained them and brought them to the office of the S.P. M.T.F. Agartala and during interrogation, it was revealed that they had entered into Indian Territory from Bangladesh through Sonamura Border. Accordingly they were arrested and subsequently P.R. was lodged against them under Section 3 of the Passport (entry into India) Act, 1920 (as amended in the year 2000) read with Rule 6 of Indian Passport (entry into India) Rules, 1950 and also produced the convict-accused before the court of learned Chief Judicial Magistrate, West Tripura, Agartala and, accordingly, cognizance was taken.

4. During trial, both the convict-accused have pleaded guilty on 30.09.2015 and on this plea of guilty learned Chief

Judicial Magistrate, West Tripura, Agartala convicted and sentenced them, as stated supra.

5. Being dissatisfied with the conviction and sentence passed by the learned Chief Judicial Magistrate, West Tripura, Agartala, the present convict accused persons preferred an appeal under Section 375 of the Code of Criminal Procedure before the learned Sessions Judge, West Tripura, Agartala and the matter was subsequently transferred to the court of learned Additional Sessions Judge (Court No.3), West Tripura, Agartala.

6. The learned Additional Sessions Judge, after hearing the parties and considering the facts held that the convict-accused persons being Bangladeshi nationals have entered into India violating the provisions of Passport Act and therefore do not deserve the right of equality, as claimed in the instant case and finally dismissed the appeal.

7. Being aggrieved by the said judgment of the appellate authority, the convict-accused persons preferred the present revision petition.

8. Mr. De, learned counsel submits that for the similar offence the learned Chief Judicial Magistrate has passed separate sentences and in one of the cases the learned Chief Judicial Magistrate i.e. the trial Court sentenced the accused to suffer rigorous imprisonment for 16 days and to pay fine money of Rs.25,000/- 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. He further submits that the convict-accused persons have already suffered the sentence of 2 months 23 days. Thus, it would be proper to modify the sentence to the extent already suffered and direct the Officer In-charge, MTF, West Tripura to repatriate the convict-accused persons to Bangladesh.

9. On the other hand Mr. Ghosh, learned Public Prosecutor submits that the learned trial Court passed various sentences to various persons considering the facts of those cases. He further submits that there is nothing wrong in the order of the learned trial Court.

10. This Court has considered the submissions of learned counsel for the parties and is of the opinion that it would be proper to modify the sentence passed by the learned appellate Court to the extent the convict-accused have already undergone and to pay a fine of Rs.10,000/- each, in default of payment of fine money, to suffer simple imprisonment for 15 days. Ordered accordingly.

11. The State may take appropriate steps for removal of the convict-accused persons in accordance with Section 5 of the Passport (entry into India) Act, 1920.

11. In the result, the revision petition is partly allowed. Copy of this order be sent to the learned Chief Judicial Magistrate, West Tripura, Agartala.

JUDGE