GAHC010059952020

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

Case No. : Crl.Rev.P. 110/2020

1:ISMAIL HUSSAIN
S/O LATE NURMOHAMMAD, VILL-UDAMARI, P.S.-KALGACHIA, DIST-BARPETA, ASSAM

VERSUS

1:THE STATE OF ASSAM AND ANR.
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:LAKSHYADHAR NATH
S/O LATE HARENDRA NATH
C/O HAJO POLICE STATION
HAJO
DIST-KAMRUP(R)
ASSAM
PIN-78110

Advocate for the Petitioner : MR. A M KHAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE RUMI KUMARI PHUKAN

O R D E R

17-08-2020.

By filing this petition under Section 401/397 read with Section 482 of the CrPC, the petitioner has sought for setting aside and quashing of the impugned order dated 27.02.2020, passed in petition No.418/2020, seeking custody of the cows seized in connection with the Hajo P.S. Case No.127/2020

(corresponding to G.R. No.162/2020), registered under Section 379/411 of the IPC, read with Section 11(1)(d) of the Prevention of Cruelty to Animals Act.

The contention raised in the present petition is that the aforesaid cows were recovered and seized from the driver of the vehicle, which belongs to the present petitioner and he has relevant documents to claim ownership of the seized cows. However the learned trial Court, by the impugned order has refused to deliver the seized cows in his favour. Relying on a set of documents (sale receipts), it has been submitted by the learned counsel that as the petitioner has necessary documents regarding ownership of the cows, hence it should be released in his favour.

Gone through the documents annexed and also the case diary as well as the report given by the I.O, who has submitted in his report that the documents regarding the ownership of the cows, which were seized at the time of seizure are totally different than that of the documents produced before the Court. So it is difficult to release the cows in favour of the petitioner and there is suspicion that the seized cows are stolen.

After going through the documents that have been submitted along with the present petition, it reflects that the receipt book has no number however there is serial number and the seller and the identifier have given thumb impression. The matter is to be inquired properly by the I.O. to ascertain the entire matter.

In that view of the matter, while there is two set of evidence regarding the sale of the said cows, it will be proper on the part of the I.O. to go for a further inquiry on the subject and to submit a report before the learned trial Court and the trial Court will consider the entire matter afresh.

Considering all entirety of the matter, the petition stands disposed of with a direction to the petitioner to approach the learned trial Court along with the said documents that have been filed before this Court, with a copy to the I.O. and the learned trial Court will obtain a report on the prayer of the zimma application and will dispose of the same in accordance with law, after obtaining a proper report from the I.O.

With the above observation and direction, the petition stands disposed of.

JUDGE

Comparing Assistant