GAHC010010702012

2026:GAU-AS:16430

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

Case No. : Crl.Rev.P./596/2012

AJOY KR. VISWAKARMA
S/O LT. SARJU KR. VISWAKARMA VILL- NILIBARI, P.O. SIMLAGURI DIST. CHIRANG, P.S. NEW BONGAIGAON PIN- 783381.

VERSUS

THE UNION OF INDIA
REP. BY THE GENERAL MANAGER, N.F. RAILWAY, MALIGAON P.O. MALIGAON RAILWAY HEAD QUARTERS, GUWAHATI-781011.

Advocate for the Petitioner : MR.B M CHOUDHURY, MR.P KALITA,MRS.A BHATTACHARYYA

Advocate for the Respondent : MR. R K D CHOUDHURY, DY. S.G.I., RAILWAY, SC, RAILWAY,PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 06-11-2026

None appears for the petitioner. Heard Mr. R.K.D. Choudhury, learned Sr. counsel/ DSGI, assisted by Ms. L. Devi, learned counsel appears for the respondent.

2. The present criminal revision petition has been instituted by the petitioner assailing

the judgment and order dated 06-10-2012, passed by the court of the learned Addl. Sessions Judge (FTC), Cachar at Silchar in Crl. Appeal No. 20/2010, affirming the conviction and sentencing of the petitioner, herein, by the court of Special Railway Magistrate (Judicial) 1st Class, Tinsukia in SR(CR) Case No. 149/2004, convicting the petitioner under Section 3(a) of the Railway Property (Unlawful Possession) Act, 1966 and sentencing the petitioner to pay fine of Rs. 3000/- (Rupees Three Thousand), in default, to undergo Simple Imprisonment for 06 (six) months.

3. The prosecution case, in brief, is that on 27-09-2003, the complainant Chintu Borkakoty along with Sub-Inspector N.B. Singh and Head Constable B. Bordoloi while on checking duty at the Silchar Railway Yard/ platform, had noticed one person going towards Tarapur main road with a plastic bag in his hand. Being suspicious the said personnel followed the said person and caught him in the circulating area of the Railway station near the GRPS Outpost. On checking the bag carried by the said person, four numbers of transformer coil and 36 (thirty six) numbers of electrical sheets were found in the possession of the said person. On being interrogated, the person had disclosed his name as Ajay Kumar Biswakarma, a Senior Section Engineer (Electrical), Badarpur Railway, i.e. the petitioner, herein. The petitioner had disclosed that he was not on duty and was under treatment. The petitioner not being able to satisfactorily explain as to how he came to possess the said articles recovered from him, the petitioner was arrested. A complaint lodged was registered as Case No. 2(9)/2003 at the RPF Post, Silchar. During investigation of the said case, another accused Gopal Chandra Sen, Peon of Electrical Division, Badarpur N.F. Railway was arrested and on the basis of his confession, further

recovery of one Orient white ceiling fan and a switch board having regulator and switch were recovered. The recovered materials had N.F. Railway marking over them. Basing on the said confession of Gopal Chandra Sen, two more persons, namely, Anil Kumar Deb, Oil Engine Fitter/ Electrical, Badarpur and one Nabendu Malakar, Driver/ Train Lighting (Electrical) were also arrested on 02-11-2003. On completion of the investigation, prosecution report against the above accused persons were submitted under Section 3(a) of the Railway Property (Unlawful Possession) Act, 1966 (in short "the Act of 1966"). The learned trial court framed charges under Section 3(a) of the Act of 1966 against the accused, including the petitioner, herein. During the course of trial, Gopal Chandra Sen, accused having expired, the case against him stood abated.

4. During the trial, the prosecution had examined 13 (thirteen) witnesses. Thereafter, the petitioner, herein, was examined under Section 313 Cr.P.C. and the petitioner had also deposed his own witness as DW-1. On conclusion of the trial, while the other two accused persons, namely, Anil Kumar Deb and Nabendu Malakar were acquitted from the charges framed against them, the petitioner was convicted under the provision of Section 3(a) of the Act of 1966 and sentenced to pay fine of Rs. 3000/- (Rupees Three Thousand), in default, to undergo simple imprisonment for 06 (six) months.

5. Being aggrieved, the petitioner had assailed his conviction and sentencing under Section 3(a) of the Act of 1966, before the court of the learned Sessions Judge, Cachar at Silchar, by way of instituting Crl. Appeal No. 20/2010. The case was endorsed to the court of Addl. Sessions Judge (FTC), Cachar at Silchar for disposal. The appellate court, after examining the materials coming on record, proceeded vide judgment and order dated 06-

10-2012, to dismiss the said appeal on merits and thereby, affirming the conviction and sentencing of the petitioner, herein, by the learned trial court. Being aggrieved the petitioner has instituted the present revision petition.

6. Mr. R.K.D. Choudhury, learned Sr. counsel/ DSGI by taking this Court through the evidences adduced by the prosecution witnesses has submitted that the materials recovered from the petitioner, herein, have been established to be railway materials and to have been possessed by the petitioner without any authority. Mr. Choudhury has further submitted that the evidences coming on record having established the charge against the petitioner under Section 3(a) of the Act of 1966, the conviction of the petitioner, thereunder, by the learned trial court would not mandate interference from this Court. Mr. Choudhury has further submitted that from the tenor of the evidences adduced by the petitioner, herein, before the trial court, it would be clear that the petitioner had not even ventured to dispute that the seized articles did not belong to the N.F. Railway and accordingly, he submits that the conviction of the petitioner under Section 3(a) of the Act of 1966 would not mandate interference from this Court. Mr. Choudhury by taking this Court through the conclusions drawn by the learned appellate court vide the judgment and order date 06-10-2012, has submitted that the learned appellate court had taken into consideration all the points urged by the petitioner before it and basing on the overwhelming evidences coming on record during the trial, the learned appellate court had rightly proceeded to reject the contentions so raised by the petitioner, herein. Accordingly, he submits that the conclusions drawn by the learned appellate court would also not mandate any interference from this Court.

7. I have heard the learned counsel for the respondent and closely perused the materials coming on record. As noticed hereinabove, the petitioner, herein, was alleged to have possessed railway materials without any authority. From the evidences coming on record, it is evident that the materials so recovered from the possession of the petitioner on 27-09-2003, were admittedly railway materials and the same was found in the possession of the petitioner. However, the petitioner had failed to provide any authority, under which he had possessed the said materials. The petitioner had also not disputed that the said materials so recovered from him were not materials belonging to the railways. Accordingly, the ingredients of the provision of Section 3(a) of the Act of 1966 is found to have been satisfied in the matter and the conviction of the petitioner by the learned trial court under the provision of Section 3(a) of the Act of 1966, in the considered view of this Court would not mandate interference.

8. The learned appellate court upon considering the contentions raised by the petitioner before it, more particularly, the contention that the petitioner was falsely implicated and nothing was recovered from his possession had proceeded to draw the following conclusion.

> "*18. Now, from the evidence as discussed here-in-before, it is seen that P.W.11 stated that he made an inspection on 03.09.03 at Train Lighting Office at Badarpur and found transformer coil and transformer winding made copper sheets were missing. This fact virtually got support from the statement of D.W.1-accused/appellant that he was asked to go to Silchar in connection with store misleading case. That being so, the fact of stealing of railway properties virtually established from the evidence of P.W.-11. From the evidence discussed here-in-before, it also established that, the seized articles, Mat.Ext.1 to 40, were recovered from the possession of the accused/appellant. It is also virtually not disputed the recovered articles belongs to the N.F. Railway, which were stollen from the Train Lighting Office. That being so, the above cited rulling of the appellant side, in no*

way, comes to help the accused/appellant. It is also not disputed that the seized articles are not belongs to N.F. Railway. The defence also failed to dis-prove the above fact by adducing cogent evidence. Mere plea that the accused/appellant was falsely implicated cannot take the place of proof adduced by the prosecution side. The next question comes, admittedly, the accused/appellant is a railway employee and then question arises why he should be implicated by his fellow colleagues."

9. On a close perusal of the conclusions drawn by the learned trial court, this Court is of the considered view that said conclusions are so based on the evidences coming on record before the learned trial court and accordingly, the said conclusions would not mandate interference from this Court. As noticed, hereinabove, the petitioner had not disputed that the seized articles did not belong to the railway and further he failed to bring on record any authority, authorizing him to possess the said materials.

10. In view of the above position, this Court is of the considered view that the conclusions drawn by the learned appellate court would also not mandate interference from this Court.

11. In view of the above conclusions drawn by this Court, this Court is of the considered view that the conviction of the petitioner under Section 3(a) of the Act of 1966, would not mandate any interference from this Court. Having drawn the said conclusions, this Court has also examined the sentencing of the petitioner, herein, by the learned trial court. The learned trial court having taking a lenient view in the matter had proceeded to only impose a fine of Rs. 3000/- (Rupees Three Thousand) upon the petitioner, which was upheld by the learned appellate court. This Court on consideration of the matter, in the light of the evidences coming on record finds that the said sentencing of the petitioner to be reasonable one and the same, accordingly, would also

not mandate interference from this Court.

12. In view of the above discussions, the present criminal revision petition is held to be devoid of any merit and the same, accordingly, stands dismissed, upholding the judgment and order dated 14-07-2010 passed by the learned trial court in SR(CR) Case No. 149/2004 and the judgment and order dated 06-10-2012 in Crl. Appeal No. 20/2010, passed by the appellate court.

Registry to send down the TCR along with a copy of this order.

JUDGE

Comparing Assistant