

CAUSE TITLE**CRIMINAL REVISION NO.8(3)2017.**

Petitioners : 1. Md. Rafiqul Islam.
2. Md. Noor Islam.
3. Musstt. Falu Begum.
4. Musstt. Kandu Begum.

Respondent : State of Assam.

ADVOCATES :

For the Respondent: Mr. A. H. Haque, Advocate.

For the State :Mr. Jagneswar Saikia, the learned Public Prosecutor.

**IN THE COURT OF THE SESSIONS JUDGE, LAKHIMPUR,
AT NORTH LAKHIMPUR.**

Present: Smti. S.P. Khaund, (M.A. Economics, L.L.B.),
Sessions Judge,
Lakhimpur, North Lakhimpur.

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Respondent : State of Assam.

Date of argument : 18.11.2020.

Date of judgment : 03.12.2020.

JUDGMENT & ORDER

- 1) This Revision petition is preferred by the Petitioner contending interalia that the order dtd. 19.07.2017 passed by the learned Addl. Chief Judicial Magistrate, Lakhimpur, North Lakhimpur, in GR Case No.400/2014, is repugnant to natural justice. It is contended that the summonses were issued to the accused, Mofizul Islam and Noor Islam figured as Petitioners in this case. Both the petitioners did not receive the summonses and non-bailable warrant of arrest were issued against them.
- 2) Meanwhile, some areas of Lakhimpur district were inundated by flood. The petitioners were affected by the deluge in the district and they failed to appear. It is also alleged that no Vokatnama

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was signed by Noor Islam, Mofizul Islam, Falu Begum and Kandu Begum, and so the learned trial court was pleased to issue summonses to Mofizul Islam and Noor Islam. It is also submitted that the order dtd. 19.07.2017 of the learned Chief Judicial Magistrate is controversial and so, the order is liable to be revoked.

- 3) It is apt to mention at this juncture that the learned counsel for the Petitioners submitted his argument based on a copy of the Revision Petition. As this case has been pending since 04.09.2017, and as the corresponding GR Case No.400/2014 is pending since 20.07.2014, the hearing has been taken up despite the fact that the original Revision Petition has been misplaced from this record. A thorough search was made, but the original Revision Petition could not be traced out.
- 4) The learned counsel for the Petitioners has not disputed the copy of the Revision Petition and he has submitted that the copy of the Revision Petition is a true copy of the original Revision Petition. The matter relates to non-appearance and abscondance of the accused. The matter does not relate to any incident relating to the case filed by the complainant, Alimor Islam.
- 5) So, for the interest of justice, this court proceeds to dispose of the Revision based on the submissions of the learned counsel for the Revision Petitioners.
- 6) I have also heard the learned P.P., who has submitted that the order dtd. 19.07.2017 was correctly passed by the learned trial court.
- 7) The impugned order is reproduced here-in-below verbatim,
“Accused person Rafiqul Islam is absent and cause shown on his behalf praying for another date for appearance. Perused the case record. Heard the Id. Counsel for both sides. It appears that

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vide order and Judgment dtd. 21.03.2017 in CrI. Rev. No.19(2)2016, passed by Hon'ble Additional Sessions Judge FTC, wherein the accused Rafiqul Islam is directed to appear before the Court on 20.04.2017, but since then the accused person failed to appear before this Court showing cause. The ground shown today for taking time on behalf of the accused person is not found to be satisfactory. Already sufficient time is allowed to accused Rafiqul Islam to appear before this court, but the accused is taking time and delaying his appearance. Further time cannot be allowed at this stage. Accordingly, the prayer for adjournment is rejected. Issue W/A against the accused person. Rest four (4) accused persons are absent without any step. Perusal of the case record, it shows that steps were taken on behalf of accused Falu Begum and Kandu Begum on the previous dates. But today they were absent without any step. Accordingly, W/A be issued against both of them. Also it appears from the charge-sheet that rest two (2) accused persons Mofizul Islam and Noor Islam are also shown absconder in the charge-sheet and due to non appearance of the accused persons, this case is getting delay in disposal. Considering the serious nature of the offence alleged against the accused person let a W/A be issued against the above accused persons to secure their attendance at an early date. Fix 29.08.2017 for appearance."

- 8) The order clearly reveals that all the accused persons, Rofiqul Islam, Falu Begum, Kandu Begum, Mofizul Islam and Noor Islam have failed to appear, and the original GR Case No.400/2014 was protracting from the year, 2014 upto the year, 2017 for their failure to appear. Moreover, the accused persons were also shown as absconders in the original case. Consequent to their prolonged absence, the learned trial court issued N.B.W.A against them. The accused persons, figuring as Petitioners in this Revision Petition, were not declared as absconders. This case was fixed for their appearance.

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- 9) At this stage, it appears that the accused persons are willing to face trial and appear before the learned trial court. There appears to be no justified ground why this Revision has to be kept pending for want of original Revision Petition.
- 10) After due consideration and on taking a pragmatic view, I deem it proper that the order dtd. 19.07.2017 may be set aside.
- 11) After considering the submissions of both the sides, the order dtd. 19.07.2017 directing issuance of warrant against all the Petitioners, who are the accused persons in the original GR Case No.400/2017, is, hereby, set aside.
- 12) The accused persons are directed to appear before the learned trial court, immediately, within one month i.e., on or before 19.12.2020 to face trial.
- 13) Send back the L.C.R. with a copy of this Judgment & Order.

Judgment & Order is signed, sealed and delivered in the open Court on the 3rd day of December, 2020.

(S.P. Khaund)
Sessions Judge,
Lakhimpur, North Lakhimpur.

Certified that the Judgment is typed to my dictation and corrected by me and each page bears my signature.

(S.P. Khaund)
Sessions Judge,
Lakhimpur, North Lakhimpur.

Transcribed and typed by :
Sri Satyabrata Kshattri, Stenographer.