

GAHC010163772024



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

Case No. : I.A.(Crl.)/414/2024

NITYANANDA DAS @ NITU
S/O LATE MAHENDRA DAS
R/O BARIHAT
SARU HERAMDOI
P.S. PALASHBARI
DIST. KAMRUP
ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP
ASSAM

2:SMTI. RIJUMONI DAS
W/O KARUNA KT. DAS
R/O 2 NO. DILINGA (SONAPUR)
P.S. BOKO
DIST. KAMRUP
ASSAM
PIN CODE-781135

Advocate for : MR S C DAS

Advocate for : PP

ASSAM appearing for THE STATE OF ASSAM AND ANR

Linked Case : **Crl.Pet./361/2024**

NITYANANDA DAS @ NITU
S/O LATE MAHENDRA DAS
R/O BARIHAT
SARU HERAMDOI
P.S.-PALASHBARI
DIST- KAMRUP
ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

2:SMTI. RIJUMONI DAS
W/O KARUNA KT. DAS
R/O 2 NO. DILINGA (SONAPUR)
P.S.-BOKO
DIST- KAMRUP
ASSAM

Advocate for : MR S C DAS
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

Linked Case : **Crl Rev P. No. 3167/2024 (Filing Number)**

NITYANANDA DAS @ NITU

VERSUS

THE STATE OF ASSAM AND ANR (A)

Advocate for : MR S C DAS
Advocate for : appearing for THE STATE OF ASSAM AND ANR (A)

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

12.09.2024

Heard Mr. S. C. Das, learned counsel for the petitioner and Dr. B. N. Gogoi, learned counsel for the respondent No. 2. Also heard Ms. S. Jahan, learned Additional Public Prosecutor for the State/respondent No. 1.

2. The applicant as an appellant preferred the connected Criminal Revision Petition against the Judgment dated 27.07.2023 passed by learned Sessions Judge, Kamrup, Amingaon in Criminal Appeal No. 25/2022 with a delay of 157 days.

3. By Judgment dated 27.07.2023 passed in Criminal Appeal No. 25/2022 the learned Sessions Judge, Kamrup, Amingaon set aside the Final Order dated 17.09.2022 of the learned JMFC, Amingaon passed in DV Case No. 96^M/2018 and directing the present applicant to pay monthly maintenance of Rs. 5,000/- in favour of the respondent No. 2 from the date of filing of the petition under Section 12 of the said 2005 Act, i.e., 26.09.2018 and further directed him to clear the arrear amount within next six months from the date of the said judgment dated 27.07.2023.

4. In the meanwhile, the respondent No. 2 approached the Court of the learned Judicial Magistrate First Class (1), Kamrup, Amingaon in said DV Case No. 96^M/2018 for the execution of the appellate Judgment dated 27.07.2023 passed in Criminal Appeal No. 25/2022, noted above.

5. As the applicant in spite of receipt of notice did not appear before the learned JMFC (1), Amingaon in said DV Case No. 96^M/2018, the learned Magistrate on 02.10.2022 issued Distress Warrant against him.

6. In spite of that as the applicant did not appear in said DV Case No. 96/2018 and did not comply with the direction of the Appellate Court dated 27.07.2023 passed in Criminal Appeal No.

25/2022, noted above, the learned JMFC (1), Amingaon by orders dated 06.12.2023, 07.02.2024, 13.03.2024 and 09.04.2024 passed in DV Case No. 96^M/2018 issued orders of Non-Bailable Warrant of Arrest against the petitioner.

7. As such, the applicant as petitioner filed Criminal Petition No. 361/2024 praying amongst others to set aside and quash the order of Distress Warrant dated 09.10.2023 and the order of NBWA dated 06.12.2023 issued against him by the learned JMFC (1), Kamrup at Amingaon in DV Case No. 96^M/2018.

8. From the records of DV Case No. 96^M/2018 that was called for by the Court on 23.04.2024 in Criminal Petition No. 361/2024, it is seen that the learned JMFC (1), Kamrup, Amingaon by order dated 06.12.2023 came to a finding that the Distress Warrant issued against the applicant on 09.11.2023 was duly received by the brother of the applicant Diganta Das.

9. It appears that the applicant was fully aware of the Criminal Appeal No. 25/2022 and the Judgment passed therein against him.

10. The respondent No. 2 is allowed 4 (four) weeks time to file its objection, if any against the delay condonation petition of the applicant.

11. Criminal Petition No. 361/2024 is released from part-heard.

12. List after **4 (four) weeks**.

JUDGE

Comparing Assistant