

GAHC010065492026



2026:GAU-AS:5289

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

Case No. : WP(C)/1923/2026

ABDUL KUDDUS
S/O MAHAMMAD ALI, R/O DURABANDI BEEL, P.O. LOCHANABARI,
P.S.MOIRABARI, DIST. MORIGAON, ASSAM , PIN- 782126

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECY. TO THE GOVT. OF ASSAM, HOME AND
POLITICAL DEPTT., DISPUR, GUWAHATI 06

2:THE COMMISSIONER OF POLICE
GUWAHATI EAST DISTRICT
GUWAHATI

3:THE OFFICER IN CHARGE
SONAPUR POLICE STATION
SONAPUR
DIST- KAMRUP (M)
ASSAM
PIN-781005

4:THE PRESIDENT / SECRETARY
DAHATIHABI COW PROTECTION SOCIETY
VILL- DAHATIHABI
P.O- NELLIE
P.S- JAGIROAD
DIST- MORIGAON
ASSAM
PIN-78210

Advocate for the Petitioner : MR. J ALI, MD S HOQUE,MR. M DEKA

Advocate for the Respondent : GA, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 02.04.2026

Heard Mr. S. Hoque, learned counsel for the petitioner and Mr. K. Gogoi, learned Additional Senior Government Advocate, Assam for the respondent nos. 1, 2 & 3.

2. By instituting the present writ petition, the petitioner has sought to invoke the extraordinary and discretionary jurisdiction of this Court under Article 226 of the Constitution seeking the following reliefs :-

1. Issue a writ in the nature of Mandamus directing respondent no. 3 [Officer in-Charge, Sonapur Police Station] to *forthwith compensate* the petitioner the loss of Rs. 16,20,000/- [Rupees Sixteen Lakh Twenty Thousand] only suffered due to failure to hand over 27 cattle in terms of the order dated 11-02-2025 passed by the Learned SDJM[S]-1, Kamrup [M] and/or;

2. Declare that the arbitrary action of respondent no. 3 constitutes a constitutional tort and violation of fundamental rights under Articles 14 and 21 of the Constitution of India and/or;

3. Direct the State of Assam to recover the compensation amount from the erring officer personally, so as to ensure accountability in governance and/or;

4. Pass such further order[s] as this Hon'ble Court may deem fit and proper in the interest of justice.

3. The background facts leading to the institution of the writ petition can be narrated, in brief, at first.

4. On 22.10.2024, an information was received at Sonapur Police Station from a source that at a service lane near Samota Railway Bridge of Tetelia Railway Station, two nos. of trucks loaded with cattle were found in abandoned condition. On receipt of the said information, a General Diary Entry, G.D. Entry no. 38 dated 22.10.2024 was registered and an Assistant Sub-Inspector of Police, attached to Sonapur Police Station, was entrusted to cause an enquiry into the matter. A team of Police personnel, led by the ASI, went to the place of occurrence and it was found that two nos. of trucks bearing Registration nos. AS-01/RC-6724 and AS-18/AC-5376 loaded with cattle were left in abandoned condition and the drivers and the handymen of the two trucks had left the place of occurrence leaving the two trucks unattended.
5. On a search being made, twenty-seven nos. of cattle were found in each truck, that is, total fifty-four nos. of cattle and the same were seized along with the two trucks in presence of witnesses vide a Seizure List, M.R. no. 256/2024. Suspecting that the cattle were being transported illegally for illegal purposes, that too, by treating the cattle with cruelty, a First Information Report [FIR] was lodged before the Officer In-Charge, Sonapur Police Station on 22.10.2024. The said FIR has been registered as Sonapur Police Station Case no. 208/2024 for the offences under Sections 303[2]/317[2], Bharatiya Nyaya Sanhita [BNS], 2023, r/w Sections 11[1][a]/11[1][b]/11[1][d] of the Prevention of Cruelty to Animals Act and Sections 13[1]/14 of the Assam Cattle Preservation Act, 2021 and a Sub-Inspector of Police, attached to Sonapur Police Station, has been entrusted to carry out investigation into the matter.
6. As the two trucks carrying the cattle were seized, the Seizure Report of the seized vehicles and seized cattle were produced before the Court of learned Sub-Divisional Judicial Magistrate [S] No. 1, Kamrup [M], Guwahati [‘the Trial Court’, for short] on 07.11.2024.
7. Subsequently, the petitioner and one Rafiqul Islam filed petitions before the Trial Court claiming ownership of the seized cattle. The petitioner claimed that he was the bona

fide purchaser of thirty cattle and on the other hand, Rafiqul Islam claimed that he was also a bona fide purchaser of cattle of thirty cattle. The petitions came up for consideration before the Trial Court on 25.11.2024. A Report was submitted by the Investigating Officer [I.O.] before the Trial Court reporting that the seized cattle might have been stolen. In the Zimma Report dated 07.11.2024 submitted before the Trial Court, an allegation has been made to the effect that the petitioner and Rafiqul Islam who have claimed to be the owners of the seized cattle were involved in the smuggling of cattle. The Trial Court found that the Police had no verified information whether or not the seized cattle were stolen. As the petitioner submitted copies of purchase receipts claiming that they had purchased the cattle, the I.O. was directed to hand over the seized cattle in the interim custody of the petitioners or the rightful owners, after being satisfied with the genuineness of the cattle purchase receipts submitted by the petitioners or the owners and after getting Zimma Bond equivalent to the market value of the seized cattle executed.

8. It is the case of the I.O. that the fifty-four nos. of cattle, after seizure, were kept in care and shelter of one Kapalkata Gaushala Branch under Dahatihabi Cow Protection Society Limited [Gaushala], located at Kapalkata as per order of the Trial Court.
9. After the Order dated 25.11.2024 of the Trial Court, the petitioner stated to have proceeded to the Gaushala to take custody of the cattle as per Zimmanama. The petitioner had alleged that on a visit to the Gaushala, he did not find any cattle there. The petitioner was informed by the Gaushala Officials that no such cattle were in the Gaushala.
10. When the Trial Court took up the case for consideration on 11.02.2025, a Report was submitted by the I.O. that the petitioner and Rafiqul Islam were not the actual owners of the seized cattle and they were not entitled to receive the interim custody of the seized cattle. Contrary claims were made by the petitioner and Rafiqul Islam. The Trial Court had found that except the petitioner and Rafiqul Islam, no one had come forward seeking interim custody of the seized cattle till that date and there were also no

materials to suggest that the seized cattle were stolen. Observing so, the interim custody of fifty-four nos. of cattle were granted to the petitioner after getting Zimma Bonds equivalent to the market value of the seized fifty-four nos. of cattle from them. The Officer In-Charge, Sonapur Police Station was directed to comply with the order.

11. It is stated that when the petitioner went to the Gaushala for taking Zimma of the cattle as per Zimmanama, it was found that there was no cattle available in the shelter of the Gaushala at Dahatihabi, Neli. The matter was reported to the Trial Court on 05.12.2024 to the effect that one Siddique Ali, who was associated with the Gaushala, was involved in the matter of missing cattle. In that connection, an FIR was lodged on 03.05.2025 and the said FIR has been registered as Sonapur Police Station Case no. 79/2025 under Sections 61[2]/318[4]/316[2]/303[2]/317[2]/317[4], BNS.
12. From the above fact situation, it has emerged that the investigation of Sonapur Police Station Case no. 208/2024 is yet to be concluded resulting a charge-sheet. The credentials of the petitioner as the owner of the seized cattle and he was one of the bona fide purchasers of fifty-four nos. of cattle seized vide Seizure List, M.R. no. 256/2024 dated 22.10.2024 are not yet established. Allegations of theft and stolen property have been levelled in connection with the seized cattle. It is not placed on record that after investigation, any charge-sheet has been submitted in connection with Sonapur Police Station Case no. 79/2025.
13. As the above facts are not established, which are required for consideration of the reliefs sought in this writ petition, this writ petition is found not maintainable at this stage. The matter for deciding the reliefs sought for, a number of factual questions will fall for determination, which can be established only after the parties are allowed to lead evidence. Therefore, the writ petition is dismissed.

JUDGE

Comparing Assistant