

GAHC010214802019



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

Case No. : Crl.Pet. 1021/2019

1:BADRUL ALI
S/O. LT. MOHAMMAD ALI, R/O. NALBARI TOWN, BEAR SUB-REGISTRAR
OFFICE, P.S. NALBARI, DIST. NALBARI, ASSAM.

VERSUS

1:THE STATE OF ASSAM AND ANR.
REP. BY PP, ASSAM.

2:RATAN BARMAN
S/O. LT. NABIN BARMAN
R/O. BIDYAPUR
WARD NO.3
NALBARI
P.S. NALBARI
DIST. NALBARI
ASSAM

Advocate for the Petitioner : MR. A CHAUDHURY
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE RUMI KUMARI PHUKAN

ORDER

Date : 09-09-2019

Heard the learned counsel for the petitioner. State is a formal party.
Raising the grievance for disposal of the appeal preferred by the present petitioner vide
Criminal Appeal No.8/2010, the present petition under Section 482 has been preferred.

Relying on the decision of *Kishan Singh vs State of UP* reported in (1996) 9 SCC 372 And in *Criminal Appeal No.1106/2019 in Special Leave Petition (Crl.) No.7230/2018* it has been contended that disposal of the appeal against conviction for non appearance of the appellant or his counsel is bad in law and the appellate court should examine the petition of appeal and the judgment under challenge and consider the case on merit instead of dismissal of the appeal. Considered the submission of the learned counsel for the petitioner and perused the document.

Let notice be issued to the respondent No.2 by registered post with A/D and usual process, returnable by four weeks.

It has been contended that subsequent to the dismissal of the appeal, warrant of arrest has been issued by the learned trial court vide order dated 18.09.2019 in NI Case No.632/2008. For the interest of justice, it is directed that the execution of warrant of arrest issued by the learned trial court shall be stayed till disposal of the present petition.

JUDGE

Comparing Assistant