

GAHC010248482023



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

Case No. : Crl.Rev.P./474/2023

PALLABI BAISHYA
W/O- SRI CHINTU MONI BAISHYA, VILLAGE- DALIBARI, P.O. DADARA, P.S.
HAJO, DIST.- KAMRUP, ASSAM

VERSUS

GAUTAM BAISHYA
S/O- LATE KESHAB BAISHYA, VILLAGE- DOLIBARI, P.O. DADARA, P.S.
HAJO, DIST.- KAMRUP, ASSAM, PIN- 781104

Advocate for the Petitioner : MR. A AHMED
Advocate for the Respondent :

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

31.10.2023

Heard Mr A Ahmed, learned counsel for the petitioner, Smt Pallabi Baishya.

2. The petitioner has filed an application under Sections 397/401 of the Code of Criminal Procedure, 1973, challenging the legality and propriety of the Judgment and Order dated 03.08.2023, passed by the learned Sessions Judge, Kamrup, affirming the Judgment and Order dated 13.10.2022, passed by the learned JMFC, Kamrup, in CR Case No. 81 of 2019, convicting the petitioner under Section 138 of the NI Act and sentencing her to pay compensation of Rs. 6,00,000/-, with default clause.

3. It is submitted that the petitioner has a good case of acquittal. The learned Courts below failed to appreciate the materials on record as well as law propounded by the Hon'ble Supreme Court through its various rulings in respect of service of legal notice to the accused persons within 15 days from the return of cheque by Bank and as such, the learned Courts below erroneously held that the legal notice was received by the accused/petitioner in connection with the instant case.
4. It is also submitted that orders dated 14.11.2022 and 16.11.2022, in Criminal Appeal No. 27 of 2022 reflect that the percentage of compensation to be deposited by the appellant to the respondent for operation of stay order has been taken up for hearing. The copy of the order will form a part of this petition.
5. It is also submitted that the petitioner has already deposited 20% of the compensation amount before the learned trial Court.
6. I have considered the submissions of the petitioner and I have also considered the submission that the petitioner has deposited 20% of the compensation amount.
7. It is also submitted that the petitioner is willing to settle this dispute through mediation or through Lok Adalat or even through amicable settlement.
8. Considering all aspects, the operation of the impugned order dated 13.10.2022, passed by the learned JMFC, Kamrup, in CR Case No. 81 of 2019, is stayed, until the next date.
9. Meanwhile, issue notice to the respondent.
10. The petitioner shall take steps for service of notice upon the respondent by registered post with A/D as well as by usual process, returnable within 4 (four) weeks.
11. List accordingly.

JUDGE

Comparing Assistant