

M/S Gr Traders vs The State Of Assam And Anr on 7 December, 2022

Page No.# 1/

GAHC010163842022

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

Case No. : Crl.Pet./834/2022

M/S GR TRADERS
REPRESENTED BY THE SOLE PROPRIETOR NAMELY GOLAM RAHMAN,
AGE 47 YEARS, S/O LATE TADARAT ALI MUNSHI, VILL-KATTAMARI, P.O.-
KHALISABHITA, P.S.-LAKHIPUR, DIST-GOALPARA (ASSAM)

VERSUS

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

2:MANOJ BASUMATARY
S/O LT AMIYA SANKAR BASUMATARY
VILL-DEBARGAON
P.O.-DEBARGAON
P.S.-SERFANGURI
DIST-KOKRAJHAR (ASSAM)
PIN-78337

Advocate for the Petitioner : MR. M K HUSSAIN

Advocate for the Respondent : PP, ASSAM

BEFORE HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND 07.12.2022 Heard Mr. M.K. Hussain, learned counsel appearing for the petitioner namely, M/S GR Page No.# 2/3 Traders as well as Mr. P. Borthakur, learned Addl. P.P. appearing for the respondent no. 1.

The petitioner is represented by its proprietor namely, Golam Rahman. This petition has been filed challenging the order dated 04.04.2022 passed by the Judicial Magistrate First Class, Kokrajhar in Serfanguri P.S. Case No. 11/2022 under Sections 273/420/34 IPC read with Section 59(3) of the Food Safety of Standard Act.

The FIR no. 11/2022 reveals that on 05.03.2022 at about 11.45 A.M., the truck bearing registration no. AS-01-KC-6277 was intercepted and checked. The truck was carrying areca nuts which were loaded at Goalpara and the truck was moving towards West Bengal. No certificate of FSSAI was found. The report is annexed as Annexure-1 along with this petition regarding quality of areca nuts, which was being transported through the aforementioned truck. The report reveals that the sample of areca nuts was found to be damaged and unfit for human consumption. The report was obtained from FSL, Kahilipara.

It is submitted that the charge-sheet has been laid and trial has commenced against the accused. It is also submitted that the petitioner is not an accused in connection with the aforementioned case.

Learned Addl. P.P. Mr. P. Borthakur, has submitted that the ownership documents were not furnished by the petitioner at the time of seizure. However, the learned counsel for the petitioner has submitted that the seizure list marked as Annexure-K reveals that the ownership documents has been seized during the investigation, so he was unable to furnish the ownership document. It is submitted that the petitioner is the owner of 170 bags of areca nuts which was being carried by the truck bearing registration no. AS-01-KC-6277.

The petitioner has prayed for zimma of the areca nuts as he will suffer from heavy loss. It is also submitted that the seized areca nuts which is lying in the open is already getting damaged.

The learned Addl. P.P. has submitted that the areca nuts may be auctioned by the authority and the applicant may deposit the proceeds in the Government treasury.

I have considered the submissions at the Bar.

The areca nuts are subject to speedy and natural decay since it was seized in the Page No.# 3/3 month of March, 2022. Balance of equity can be maintained if the seized areca nuts are put to auction and the proceeds be deposited in the Government treasury and subject to outcome of the criminal case, the same may be disposed of. Accordingly, it is provided that the authority shall put the 170 bags of areca nuts in auction by following proper procedure and giving wide publicity in two local dailies, which are widely circulated in the area and thereafter, the sale proceeds be deposited in the Government treasury and subject to outcome of the Serfanguri P.S. Case No. 11/2022, the same shall be disposed of. It is to be noted that strict measures are to be taken so that the areca nuts will be prevented from human consumption.

In the aforesaid terms and conditions, this petition stands disposed of.

The petitioner is at liberty to participate in the auction.

JUDGE Comparing Assistant