

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE ::::::::::::::; DHUBRI

Present :- Shri Biprajit Roy, AJS
Addl. Sessions Judge
Dhubri.

CRIMINAL REVISION NO.27 OF 2020

Revisionist :- Jiban Krishna Saha @ Jiban Saha

Vs

Respondent :- The State of Assam
Represented by Ld.Addl.P.P.

For the Revisionist:-Shri Subham Jain
Learned Advocate.

For the Respondent:-Shri S.C. Roy
Learned Addl.P.P.

Date of Hearing :- 21.10.2020.

Date of Judgment:-28.10.2020.

J U D G M E N T

1. This is a petition u/s.397 of Cr.P.C filed by the petitioner Jiban Krishna Saha @ Jiban Saha with a prayer to set aside the condition imposed by the learned C.J.M., Dhubri while passing the order dated 23.09.2020 giving zimma of the seized articles in custody of the petitioner.

2. The brief fact of the case is that S.I Bhagya Deka of B.N. College T.O.P lodged an FIR on 27.07.2020 stating that a search operation was conducted in the rented godown of Md. Manik Ali Bepari and seized 3,715 bags of rice which were kept illegally. The informant alleged that the said rice was kept for illegal gain by Jiban Krishna Saha @ Jiban Saha and Bishnu Ghosh. Thereafter, a petition was filed before the learned Lower Court by Jiban Krishna Saha @ Jiban Saha seeking zimma of the said rice. The learned Lower Court vide order dated 23.09.2020 allowed interim zimma of the seized rice in favour of Jiban Krishna Saha @ Jiban Saha and imposed the following conditions:

"The I.O is directed to give custody of the 3715 numbers of bags of rice to the accused petitioner on execution of a bond of Rs. 50,00,000/- (Fifty Lac) on

condition of non-disposal of the same till conclusion of the trial and to produce the same before the Court as and when required.”

3. In the course of hearing, learned counsel for the revision petitioner submitted that the conditions of non-disposal of the seized rice till conclusion of the trial and for production of the same before the trial court whenever required is absurd and the same condition is liable to be set aside. From perusal of the impugned order dated 23.09.2020, it appears that the learned Lower Court observed that rice is of perishable nature and it must be kept under proper care. Being perishable goods, rice cannot be kept for a long period in any place and after a specified period, the same becomes unfit for human consumption and the same gets damaged. In the impugned order, the learned Lower Court has imposed a condition that the petitioner shall not dispose the same till conclusion of the trial and produce the same before the Court as and when required. If any perishable goods such as rice as in the instant case is kept for a long period waiting for a disposal of a criminal trial which may take several months or years together, the same will perish and become unfit for human consumption. At the same time, production of 3715 bags of rice in the course of trial before the Court is a condition which is unnecessary and not at all required for the purpose of any trial. The learned Lower Court by imposing the said condition has contradicted its own findings and therefore, the order suffers from serious infirmity and the same is liable to be modified. Accordingly, the revision petition is allowed. The condition imposed by the learned Lower Court is modified and the revision petitioner is directed to furnish Bank guarantee equivalent to the valuation of the seized rice after obtaining valuation certificate from Supply Department and submit the same before the learned Lower Court.

The revision petition is accordingly disposed of.

Send back the LCR along with the copy of this judgment and order.

Given under my hand and seal of this court on this 21st October, 2020 at Dhubri.

Dictated & Corrected by me

Addl.Sessions Judge
Dhubri

Addl.Sessions Judge, Dhubri.