

GAHC010033302020



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

**Case No. : Crl.Pet./128/2020**

AMIR KHAN

VERSUS

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

2:ANJON ROY  
S/O LT. MONORANJAN ROY  
IN-CHARGE RANGIRKHARI TOWN OUT POST  
P.S.-SILCHAR  
DIST-CACHAR (ASSAM)  
PIN-78800

Advocates for the petitioner: Mr. L.R. Mazumder,  
Mr. A.Z. Ahmed &  
Mr. I Hoque.

Advocate for the State/respondent No.1 & 2: Mr. R.J. Baruah, Addl. P.P., Assam.

**BEFORE**  
**HON'BLE MRS. JUSTICE RUMI KUMARI PHUKAN**

Date of hearing : 07.12.2021.

Date of judgment : 20.01.2022.

## **JUDGEMENT AND ORDER**

Heard Mr. L. R. Mazumder, learned counsel appearing for the petitioner. Also heard Mr. R.J. Baruah, learned Addl. P.P., Assam, appearing for the State/respondents.

2. By filing this petition under Section 482 of the CrPC, the petitioner has sought for quashing of the order dated 10.07.2019, passed by the learned CJM, Cachar at Silchar, passed in PRC Case No.913/2019 (arising out in connection with the Silchar P.S. Case No.485/2019, under Section 14(A)/14(C) of the Foreigners Act.

3. By the said order dated 10.07.2019, after framing of charge by the learned trial Court, under Section 14-A of the Foreigners' Act, against the present accused/petitioner along with three others, the pleaded guilty for the offence alleged and accordingly, each of them were convicted to undergo simple imprisonment for two years and fine of Rs.10,000/-, in default further imprisonment for two months.

By the said order, the learned trial Court also directed the Deputy Commissioner, Cachar to take necessary steps for their deportation, after completion of their jail term.

4. Being aggrieved by the impugned order dated 10.07.2019, the present petition is preferred.

5. The brief facts of the case is that on 10.02.2019, informant Anjan Kumar Roy, the incharge of Rangikhari Town Out Post lodged an FIR, after receiving the information that some Rahingiya people were residing as tenants in the Sonarighat area. Accordingly he along with others conducted raid and found eight people (both male and female), as tenants in the house of accused No.1 and they have admitted that they have come from Bangladesh via Tripura and residing there for the last four months as tenants.

6. Accordingly they were taken into custody and produced before the Court of learned CJM, Cachar at Silchar on 11.02.2019. Later on they accused persons were released on bail, on execution of bail bonds. The police registered a case against the accused persons vide Silchar P.S. Case No.485/2019 and after completion of the investigation, the police submitted the charge sheet vide Charge Sheet No.327/2019, dated 30.04.2019.

7. On committal of the case, on 30.04.2019, the Court of learned CJM, Cachar at Silchar registered the PRC Case No.913/2019 and framed the charge under Section 14-A of the Foreigners' Act, against the present accused/petitioner along with others, which was explained to the accused

persons. The accused persons pleaded guilty to the offence leveled against them and accordingly the learned trial Court, vide the impugned order dated 10.07.2019, convicted the accused persons, as stated above.

8. The main contentions raised by the present petitioner in the present petition is that, he is a permanent resident of village Motinagar of West Tripura District. In support of his claim, the petitioner produced the birth certificate vide Annexure-6, as per which he born on 19.11.1991, in V.M. Hospital, Tripura. The petitioner contends that he pursued his primary education in Kalam Khet S.B. School, under Sonamara Police Station of West Tripura District and read there upto Class-VIII, which he tried to prove by annexing the school certificate vide Annexure-7.

9. The pleaded case of the petitioner is that he is not a foreigner but the learned trial Court framed the charge against him under Section 14-A of the Foreigners' Act and upon wrong advice of the engaged counsel, the accused persons pleaded guilty and accordingly they were convicted by the learned trial Court, as aforesaid. Otherwise, they had a good case to contest the matter in the learned trial Court and being highly aggrieved, has preferred the present petition, to set aside and quashing of the impugned order dated 10.07.2019, passed by the learned trial Court, in PRC Case No.913/2019 and to issue

necessary direction to frame the charge afresh under the proper section of Law and to initiate a fresh trial, in the interest of justice.

10. I have heard the learned counsel for both sides and perused the lower Court record.

11. On perusal of the record as well as the case diary, it reveals that the petitioner failed to produce any sort of documents at the time of investigation, which has been reflected from the various statement of witnesses. More so, the accused person has not claimed anything at the time of framing of charge that he has certain documents to produce in support of his case, rather he has pleaded guilty at the time of framing of charge. That being so, the petitioner on being pleaded guilty and serving around one year sentence, has come up with the present petition with certain documents, which he never produced before the I/O as well as before the court, now challenged the impugned order, which cannot be accepted. There appears no any illegality in the order so passed to invoke the provision under Section 482 CrPC. The inherent power under Section 482 CrPC cannot be exercised in a routine manner unless it is shown that the miscarriage of justice has been done in a given case. There being no such cogent ground to interfere with the order passed by the learned trial court, the petition is hereby dismissed.

Return the LCR.

**JUDGE**

**Comparing Assistant**