

Tezpur PS Case No-2592 of 2021
GR Case No-4158 of 2021
U/S-379/411 IPC r/w Sec-11(d)(e)(f) Prevention of Cruelty to
Animal Act

ORDER

03.01.2022

Ld. Advocate of the petitioner has filed hazira.

Report of cost called earlier vide Order dated-17.12.2021 submitted by the I/O ASI Muzamil Hazarika of Boghat Police Outpost under Tezpur PS.

Seen the report of **Dr. Monirul Hoque Veterinary Officer (Reserve), District A. H & Vety. Office, Nagaon, Assam** and from where it is seen that the probable cost of maintenance of seized cattles are Rs.200/- per day.

Heard both sides and perused the report along case record carefully.

Hence, it is seen from the report that total cost of Rs. 200/- per day per cattle is required to maintain a cattle for 43 days from the date of seizure of the said cattles i.e. on 22.11.2021 and the petitioner named Md. Abdul Mutaleb is directed to execute bond of bearing the cost of Rs.200/- per day as a cost of one cattle and they are directed to execute the bond accordingly under the following effect:-

- (i) Md. Abdul Motaleb shall execute bond of Rs.200 x 43 Days for 11 Nos. of cattle =Rs.94,600/-;

Now, coming to the prayer of zimma filed by the petitioner named Md. Abdul Mutaleb in respect of seized 11 nos of cattles, this court finds that the I/O has already opined that the petitioner named Md. Abdul Mutaleb is the owners of the seized 11 nos of cattles and the I/O not required the seized cattles for further investigation of this case.

On the point of granting zimma of the seized cattles the court has considered the orders passed by the Hon'ble Gauhati High Court in Criminal Revision P/No-68/2021 dated 19.03.2021 and Criminal Revision P/No-12/2021 dated 02.02.2021.

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On meticulous perusal of the orders passed by the Honble Gauhati High Court in both the Criminal Revision Petitions, it is seen that in both the criminal revision petitions the Honble Gauhati High Court has set aside the orders of the rejection of the prayer of the owners of the seized cattles and further directed the Ld. Lower Court to release the seized cattles in favour of the petitioner. More specifically, in Criminal Revision P/No-12/2021 dated 02.02.2021, the Honble Gauhati High Court vide its order dated 02.02.2021 opined that since there was no dispute in respect of ownership of the cattles, the true owners of the cattles are entitled custody of the cattles as the property is live stock.

Therefore, with due compliance with the findings of the Honble Gauhati High Court given in both the aforesaid criminal revision petitions, this court finds that in this case there is no dispute of ownership of the seized cattles and the I/O on examination of the documents submitted by the petitioner opined that the petitioner is the owner of the said seized cattles and the I/O not requires the seized cattles for further investigation. Further more, the FIR also not registered against the petitioner and there is no allegations pending against the petitioner for ill-treatment of the seized cattles as the accused appears to be a different person.

Undoubtedly, Honble Supreme Court in Criminal Appeal No-230/20 arising out SLP (CrI) No-11726 of 2019 held that the interim custody of the animals cannot be granted in favour of the accused person where prima facie guilty of causing cruelty of animals discloses from the FIR. Now, coming to the instant case in hand, it is seen that the present petitioner who is the owner of the seized cattles is not the accused person of this case and no prima facie allegations of creating animals with cruelty levelled against the petitioner.

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In the light of all the aforesaid discussion at this stage this court not finds any impediment in granting the prayer of the petitioner. Accordingly, the prayer filed by the petitioner on 09.12.2021 is allowed and consequent to that the I/O of this case sets at liberty to hand over the seized 11 nos of cattles in favour of the petitioner, named, Md. Abdul Mutaleb on obtaining PR bond under the following heads:-

- (i) Petitioner, named, Md. Abdul Motaleb shall execute PR bond of Rs. 40,000/- (Rupees Fourty Thousand) on behalf of one cattle i.e. Rs. 40,000/- x 11 Nos. of Cattle= Rs.4,40,000/-,

The petitioner is directed to deposit the required cost as ordered today to the "**Jyoti Enterprise, Bengenati, Nagaon, Assam**" at the time of taking delivery of the seized cattles.

The I/O is directed to make all the necessary arrangements for payment of required cost as directed by the court at the time of delivery of the seized cattles in favour of the **Jyoti Enterprise, Bengenati, Nagaon, Assam**. The petitioner further shall co-operate with the I/O during the investigation and produce the live stock as an when call for.

Accordingly, the interim zimma prayer filed by the petitioner, named, Md. Abdul Motaleb stands disposed of.

Sri N. J. Haque
Chief Judicial Magistrate
Sonitpur, Tezpur