

GAHC040005482022



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

Case No. : Crl.Petn. 53/2022

1:Naba Saikia
S/o Sri Thanuram Saikia,
R/o Hatibandha,
PO Baklioni - doloni,
P.S Gohpur,
Dist. Biswanath (Assam)
Pin 784172

VERSUS

1:THE STATE OF AP and 2 Ors.
Represented by the Public Prosecutor of Arunachal Pradesh.

2:Techi Tolu
S/o Sri Tech Hania

R/o Model Village
Naharlagun

PS Naharlagun

District Papumpare
Arunachal Pradesh.

3:Prasaanjeet Dey
S/o Sri Runu Dey

R/o Model Village
Naharlagun

PS Naharlagun

District Papumpare
Arunachal Pradesh

Advocate for the Petitioner : R Hazarika

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 20-06-2023

Heard Ms. Nikita Danggen, learned Amicus Curiae and also heard Ms. T. Jini, learned Additional PP for the State of Arunachal Pradesh.

2. This is an application under section 482 Cr.PC, 1973 praying for quashing of criminal proceeding in GR case no. 643/2017 under section 380 IPC corresponding to Naharlagun PS case no. 152/2017 on the ground of violation of section 41(A) of Cr.PC, 1973.

3. The case in nutshell is that on 16.10.2017, a written complaint was received from Shri Techit Tolu to the effect that on 15.10.2017 at around 11:58 am one Nissan Terreno car bearing registration no. AS01 BK/3569 belonging to his friend Mr. Prasanjeet Dey has been stolen from his residence located at Model Village, Naharlagun. The said car was in his possession since the last two years. On such complaint a case was registered being Naharlagun PS case no. 152/2017 under section 380 IPC, 1860. On completion of the investigation, charge sheet was filed against the applicant Mr. Naba Saikia under section 380 IPC, 1860 and Mr. Tarh Logu under section 411, IPC, 1860.

4. The only ground for quashing of the criminal proceeding in GR case no.

643/2017 arising out of Naharlagun PS case no. 152/2017 under section 380 IPC is on the alleged violation of section 41(A) regarding notice of appearance before the Police Officer which has been stated in the petition that where such person complies and continues to comply with the notice he shall not be arrested in respect of the offence referred to in the notice unless for reasons to be recorded, the police officers is of the opinion that he ought to be arrested. According to the petitioner, the Investigating Agency has not complied with the procedure to be followed and the charge sheet has been filed against the accused person. It is also averred by the petitioner that no ingredients of section 380 IPC has been established by the Investigating Officer.

5. Ms. N. Danggen, learned Amicus Curiae, fairly submits that after going through the records as well as the law laid down by the Hon'ble Apex Court in the case of ***State of Haryana Vrs. Bajan Lal*** reported in *1992 Suppl.(1) SCC 335*, the present case is not a fit case wherein this Court may exercise power under section 482 of Cr.PC, 1973 as the grounds for quashing of the FIR/criminal proceeding has not been made out.

6. Ms. T. Jini, learned Additional PP submits that as per the records and the pleading made by the petitioner, the ground for seeking quashment of the charge sheet/criminal proceeding is alleged violation of section 41(A) Cr.PC, 1973 which relates to notice for appearance before the Police Officer, which cannot be the ground for quashing of the criminal proceeding in the present case.

7. Having considered the submissions advanced by the learned Amicus Curiae and the learned Additional PP and also on examination of the materials

available on record, this Court finds that no ground has been made out for exercise of inherent power under section 482 Cr.PC, 1973 for quashment of criminal proceeding of GR case no. 643/17 under section 380 IPC by the petitioner.

8. Accordingly, this Criminal proceeding is dismissed and disposed of.

JUDGE

Comparing Assistant