

GAHC010010052014



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

Case No. : WP(C)/2606/2014

VIKASH KUMAR AHUJA
S/O LT. LAKSHMAN DAS AHUJA VILL- THAKURBARI ROAD, WARD NO. 6,
LUMDING TOWN, P.O. and P.S. LUMDING DIST. NAGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE SECRETARY, HOME DEPARTMENT, DISPUR, GUWAHATI-
781006.

2:THE DIRECTOR GENERAL OF POLICE

ASSAM POLICE HEAD QUARTER
ULUBARI
GUWAHATI- 781007.

3:THE SUPERINTENDENT OF POLICE

NAGAON
DIST. NAGAON
ASSAM.

4:THE SUB-DIVISIONAL OFFICER CIVIL
HOJAI SANKARDEVNAGAR DIST. NAGAON
ASSAM.

5:OFFICER-IN-CHARGE

LUMDING P.S. LUMDING
DIST. NAGAON
ASSAM.

6:SRI BHAWANI DHAR SARMA
THE THEN OFFICER-IN-CHARGE
LUMDING POLICE STATION C/O SUPERINTENDENT OF POLICE
NAGAON
DISTRICT.

7:SMTI. GUNJITA AHUJA
D/O LT. TARUN KUMAR AHUJA R/O HOUSE NO. 27 THAKURBARI ROAD
WARD NO. 6
LUMDING
DIST. NAGAON
ASSAM

For the Petitioner (s) : Mr. N.K. Kalita, Advocate.

For the Respondent (s) : Mr. B.J. Talukdar, Advocate.
Mr. R. De, Advocate.

Date of hearing & Judgment : **27.09.2023**

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH
JUDGMENT AND ORDER(ORAL)

The instant writ petition has been filed by the Petitioner seeking various reliefs which primarily relates to civil disputes apart from the relief that an enquiry be caused against the Respondent No. 6, who is the then Officer-In-Charge of the Lumding Police Station.

2. From a perusal of the materials on record, it reveals that the Petitioner claims that he was running a stationery shop in the name

and style " M/S Vikash Kumar Ahuja". It was alleged by the Petitioner that the Respondent No. 7 had been all along trying to dispossess the Petitioner from his shop and having not been able to do so, took the help of the Respondent No. 6 who was the then Officer-In-Charge of the Lumding Police Station. It has been alleged by the Petitioner that in collusion with the Respondent No. 6, the Respondent No. 7 was able to dispossess the Petitioner. It has also alleged that the Respondent No. 6 took the key of the business premises of the Petitioner, without any seizure list and later on, the Petitioner could see that the Respondent No. 7 had opened the said business premises and was running the said stationery shop.

3. At the outset, it is pertinent to mention that from the contents of the writ petition, it transpires that there is a civil suit which was filed by the Petitioner against the Respondent No. 7 as well as also had initiated criminal proceedings against the Respondent No. 7 and others. The said proceedings was registered as C.R. Case No. 27/2013 and the learned SDJM, Hojai, Sankardev Nagar had issued process under Sections 143/447/448/427/379/ 323/506 of the Indian Penal Code. Taking into account that the litigations between the Petitioner and the Respondent No. 7 are pending adjudication before the Civil Court as well as the Criminal Court, this Court would observe that making an observation or comment on the said litigation may prejudice either of the parties and for which this Court refrains from

making any observations.

4. Be that as it may, there is a serious allegation being made that the Respondent 7 was able to dispossess the Petitioner with the help of the Respondent No. 6 who was the then Officer-In-Charge of the Lumding Police Station. A representation was submitted on 26.12.2013 before the Officer In Charge of the Lumding Police Station who was the incumbent after the Respondent No. 6 and the copies of the same were also sent to the Superintendent of Police, Nagaon. It was the case of the Petitioner that no action was taken on the basis of the said complaint.

5. It further reveals from the records that this Court had issued notice vide an order dated 28.05.2014. The Superintendent of Police, Nagaon pursuant thereto had filed an affidavit on 02.08.2014. From a perusal of the said affidavit, it reveals that the case of the Petitioner was denied and it was mentioned that the Respondent No. 6 was no way involved in taking over the key from the Petitioner and handing over the key to the Respondent No. 7. However, the affidavit is completely silent as to whether any investigation or enquiry was made to the allegations made by the Petitioner. It is also relevant to take note of that in the said affidavit, the Superintendent of Police, Nagaon had made the statements therein on the basis of his knowledge which clearly shows that there was no official enquiry made on the allegations so made against the Respondent No. 6.

6. This Court have duly heard the learned counsels for the parties.

7. The allegation which have been made against the Respondent No. 6 is a serious allegation as regards the abuse of powers conferred upon him when he was the Officer-In-Charge of the Lumding Police Station. If there is any iota of truth on the said allegation, appropriate action has to be taken by the Police Administration against the Respondent No. 6. It is also seen that inspite of receipt of the notice, the Respondent No. 6 have chosen not to reply in the present proceedings as well as also be represented.

8. Taking into account the seriousness of the allegations, it is the opinion of this Court that the Police Administration of the Government of Assam and at least the Superintendent of Police, Nagaon ought to have enquired into the matter. This aspect of the matter however seems to be not done by the Respondent No.3 who is the Superintendent of Police, Nagaon taking into account that nothing has been mentioned in the affidavit filed by the Respondent No. 3 as well as from the affidavit itself, it transpires that the Respondent No. 3 had stated everything from his knowledge.

9. This Court under the above circumstances directs the Inspector General of Police (Administration) of the Government of Assam to enquire into the allegations made against the Respondent No. 6, i.e. Shri Bhawani Dhar Sarma who was then the Officer-in-Charge of the

Lumding Police Station. The said enquiry be concluded within a period of 3 months from the date a certified copy of the instant judgment is served upon the Inspector General of Police (Administration), Government of Assam by the Petitioner. The Petitioner would be also at liberty to place such other additional facts or materials by way of a representation.

10. It is made clear that the above observations so made shall not affect the proceedings pending between the Petitioner and the Respondent No. 7 before the Civil Court as well as before the Criminal Court.

11. With the above observations and directions, the instant petition stands disposed of.

JUDGE

Comparing Assistant