

GAHC010020192022



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

Case No. : WP(C)/863/2022

BAPPA KAR
S/O-LATE RONJIT KOR
R/O-AMBAGAN PUB SUWALONI
P.O-AMBAGAN, P.S RUPOHIHAT, MOUZA- LAOKHOWA
DIST.-NAGAON
PIN-782120

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM,
ASSAM SECRETARIAT, DISPUR, GUWAHATI-06

2:THE HOME AND POLITICAL DEPARTMENT
REP. BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
CM BLOCK
2ND FLOOR
ASSAM SECRETARIAT
DISPUR
GUWAHATI-06

3:THE DIRECTOR GENERAL OF POLICE
ASSAM POLICE HEADQUARTERS
ULUBARI
GUWAHATI-781007
ASSAM

4:ANAND MISHRA
SUPERINTENDENT OF POLICE
NAGAON
P.O AND DIST- NAGAON
PIN-782001

5:MRINMOY DAS
SDPO
KALIABOR
DIST- NAGAON
P.O- KALIABOR

6:ANAND KUMAR SARKAR
NAGAON POLICE RESERVE
P.O AND DISTRICT- NAGAON
PIN-782001

7:HORICHARAN LOHAR
S/O- LATE DUKHIRAM LOHAR
R/O- AMBAGAN
WEST COLONY
P.S- RUPAHIHAT
P.O- AMBAGAN
DIST- NAGAON
PIN-782120

8:SIBSANKAR DEY (SIBU)
S/O-MONINDA DEY
R/O- AMBAGAN
WEST COLONY
P.S- RUPAHIHAT
P.O- AMBAGAN
DIST- NAGAON
PIN-78212

Advocate for the Petitioner : MR D MAHANTA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 24.07.2023
(A.M. Bujor Barua, J)

Heard Mr. D. Mahanta, learned counsel for the petitioner and Mr. D. Nath, learned Senior Government Advocate for the respondents No. 1, 2 and 3, being

the authorities in the Home and Political Department of the Government of Assam. None appears for the respondents No. 4, 5, 6, 7 and 8.

2. This writ petition is instituted with the following prayer:

“In the premises aforesaid your Lordship’s humble petition most humbly prays that your Lordship may graciously pleased to admit the petition, call for records, issue Rule on the Respondents to show cause as to why a Writ in the nature of Mandamus should not be issued directing the Respondent authorities to take appropriate legal action/ disciplinary action against the respondent no-4 and 5 for their misuse of power/ threat given to the petitioner and to give compensation to the petitioner for damages done by them and/or after cause/ causes being shown, hearing the parties to make the Rule absolute and/or pass any other order/orders as your Lordship’s may deem fit and proper.

And/or

Pending disposal of the Rule your Lordships graciously be pleased to pass an interim order directing the respondent no-4 and 5 not to harass the petitioner in the instant case and give liberty to move freely to the petitioner and/or pass any other order/orders as your Lordship’s may deem fit and proper.”

3. On an alleged incident that in respect of the execution of a sale deed two persons, namely, Sri Horicharan Lohar and Sri Sibusankar Dey had filed a false FIR against the petitioner resulting in Rupahihat P.S. Case No. 420/468/471 of the IPC. It is the claim of the petitioner that on 07.12.2021, the Officer-in-charge of the police station approached the petitioner in the night of 07.12.2021 stating that he had come under the instruction of Sri Anand Mishra, Superintendent of Police, Nagaon and took certain video recording in the mobile phone. The further allegation is that on 08.12.2021, the Sub-Divisional Police Officer of Kaliabor, namely, Sri Mrinmay Das had threatened the petitioner to hand over the land involved in the aforementioned sale deed and stated that it was on the instruction of the Sri Anand Mishra, Superintendent of Police, Nagaon. In the circumstance, the present writ petition is instituted seeking a direction for appropriate legal action/disciplinary action against the respondents

No. 4 and 5, namely Sri Anand Mishra, Superintendent of Police, Nagaon and Sri Mrinmay Das, Sub-Divisional Police Officer, Kaliabor, respectively.

4. It is stated that the two officers in the meantime had been transferred from their respective postings where the alleged occurrence may have taken place. In the circumstance, Mr. D. Mahanta, learned counsel for the petitioner states that no further cause of action for the writ petition survives.

5. In view of such statement, the writ petition stands closed.

6. However, closure of the writ petition shall not in any manner construed to be an impediment in continuing any investigation that may have been initiated pursuant to any police case as well as any further remedy under the law that may be available to the writ petitioner against the aforementioned police officers, if so advised.

J U D G E

J U D G E

Comparing Assistant