

GAHC010026462018



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

Case No. : WP(C)/790/2018

ENAMUL ISLAM MONDAL
S/O. AZIZUR RAHMAN MONDAL, VILL. GOTABARI, P.O. SUKCHAR, P.S.
SUKCHAR, DIST. SOUTH SALMARA MANKACHAR, ASSAM

2: IMDADUL ISLAM MONDAL

S/O. DR. MAJIDUR RAHMAN MONDAL
VILL. HATSINGIMARI
P.O. HATSINGIMARI
P.S. SOUTH SALMARA
DIST. SOUTH SALMARA MANKACHAR
ASSAM

3: ABU NASHIR

S/O. BAZAL MOLLAH
VILL. HATSINGIMARI
P.O. HATSINGIMARI
P.S. SOUTH SALMARA
DIST. SOUTH SALMARA MANKACHAR
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, HOME AND
POLITICAL AFFAIRS DEPTT., DISPUR, GHY.

2: THE DIRECTOR GENERAL OF POLICE

ULUBARI
GHY.

3: THE DIRECTOR AGRICULTURE

ASSAM
KHANAPARA
GHY.

4:THE ADDL. DIRECTOR GENERAL OF POLICE

ASSAM
CHIEF MINISTER'S VIGILANCE CELL
ASSAM SECRETARIAT
DISPUR
GHY.

5:THE ADDL. DIRECTOR GENERAL OF POLICE

ASSAM
VIGILANCE AND ANTI-CORRUPTION CELL
SREEMANTAPUR
GHY.

6:THE ADDL. DIRECTOR GENERAL OF POLICE

CID
ASSAM
ULUBARI
GHY.

7:THE DY. COMMISSIONER

SOUTH SALMARA MANKACHAR DISTRICT
HATSINGIMARI

8:THE SUPDT. OF POLICE

CHIEF MINISTER'S SPL. VIGILANCE CELL
ASSAM
SIX MILE
GHY.

9:THE SUPDT. OF POLICE

VIGILANCE AND ANTICORRUPTION
ASSAM
ANTICORRUPTION
SREEMANTAPUR
GHY.

10:THE SUPDT. OF POLICE

SOUTH SALMARA MANKACHAR DISTRICT
HATSINGIMARI
ASSAM

11:THE OFFICER IN CHARGE

SOUTH SALMARA POLICE STATION
P.O. SOUTH SALMARA
DIST. SOUTH SALMARA MANKACHAR
ASSAM

12:ABU MUSTAFA SK

S/O. LT. ABUL KASHEM SK
VILL. HATSINGIMARI
P.O. HATSINGIMARI
DIST. SOUTH SALMARA MANKACHAR
ASSA

For the Petitioner(s) : Mr. K. N. Choudhury, Sr. Advocate
For the Respondent(s) : Mr. K. K. Parasar, Advocate
: Ms. U. Das, Additional Sr. Government Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 18.12.2023

1. The instant writ petition was filed by the Petitioner challenging two proceedings initiated against the Petitioner on the basis of a complaint filed by the Respondent No.12. The said two proceedings are:

(i) RE No.32(5)2017 which was pending before the Directorate of Vigilance and Anti Corruption, Assam.

(ii) The criminal investigation proceedings being registered as South Salmara Police Station Case No.203/2017 registered under Sections 406/420/506/34 of the Indian Penal Code, 1860.

2. The basis for filing the instant writ petition is that there was another proceedings initiated at the behest of the complaint filed by the Respondent No.12 before the Criminal Investigation Department (CID) of the Government of Assam which was numbered as Enquiry No.86/2017 pertaining to Cell-XXI/ENQ. In the said proceedings before the CID, a report was submitted on 01.07.2017 to the effect that the allegations made in the complaint by the Respondent No.12 had no truth and was also not substantiated. It is therefore the case of the Petitioner that when an Investigating Authority had already submitted a detailed report in respect to the complaint filed by the Respondent No.12, the further continuation of the aforementioned two proceedings is an abuse of the process of law.

3. During the pendency of the instant writ petition, the Investigating Authority of the South Salmara Police Station in South Salmara P.S. Case No.203/2017 submitted a final report stating that there was no case made out under Section 406/420/506/34 of the Indian Penal Code.

4. It further reveals from an affidavit filed by one Pabindra Kumar Nath on 18.12.2023 who is presently serving as Superintendent of Police, Directorate of Vigilance and Anti-Corruption, Assam that on the strength of complaint filed by the Respondent No.12 on 28.04.2017, a preliminary enquiry was conducted by the Directorate vide P/E No.56/17 dated 03.05.2017. Subsequently, the Enquiry Officer submitted an enquiry report suggesting for regular enquiry. Accordingly, a Regular Enquiry vide DV&AC R/E No.32(5)2017 dated 24.05.2017 was initiated by the Directorate. In course of the said enquiry, a letter vide

No.DGVA/RI/2018/74 dated 04.01.2018 was sent to some officials to depose in connection with Regular Enquiry. The final enquiry report of R/E No.32(5)2017 was sent to the Government vide letter No.DGVA/RE/2023/9926 dated 11.12.2023 with a request to close the enquiry.

5. The learned Senior counsel for the Petitioner therefore submitted that in view of the above i.e. the report submitted by the Criminal Investigation Department (CID) of the Government of Assam numbered as Enquiry No.86/2017; the final report submitted in South Salmara Police Station bearing Case No.203/2017 as well as the report so submitted in RE No.32(5)2017, all the proceedings so initiated against the Petitioner have been duly closed. Under such circumstances, the learned Senior counsel therefore submitted that nothing survives in the instant writ petition.

6. Accordingly, in view of the above, this Court therefore closes the instant writ petition as nothing further is required to be adjudicated upon.

JUDGE

Comparing Assistant