

GAHC010065282023



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

Case No. : Crl.Pet./287/2023

EZZAT ALI AND 9 ORS.
S/O LATE FUL MOHAMMAD SK.
R/O DIRER CHAR PART-I,
P.S. CHAPOR
DIST. DHUBRI, ASSAM

2: SIRAJ ALI
S/O LATE MOKBUL HUSSAIN
R/O DIRER CHAR PART-I
P.S. CHAPOR
DIST. DHUBRI
ASSAM

3: LALCHAND ALI
S/O LATE SAMSUL HOQUE
R/O KHORSIMARI
P.S. PANCHARATNA
DIST. DHUBRI
ASSAM

4: HOBIBUR RAHMAN
S/OLATE JADU SK.
R/O CHANDIR PARA
P.S. CHAPOR
DIST. DHUBRI
ASSAM

5: JAMALUDDIN
S/O LT. DOST MOHAMMAD
R/O LALIYAPARA
P.S. CHAPOR
DIST. DHUBRI
ASSAM

6: JAMAL ALI
S/O LATE NAIMUDDIN SK.
R/O CHANDIRPARA
P.S. CHAPOR
DIST. DHUBRI
ASSAM

7: SAYED ALI
S/O LATE CHANDULL SK.
R/O CHANDIRPARA
P.S. CHAPOR
DIST. DHUBRI
ASSAM

8: WAHAB ALI
S/O LATE ROSTAM ALI
R/O KHORSIMARI
P.S. PACHARATNA
DIST. DHUBRI
ASSAM

9: HASEM ALI
S/O AKHER ALI
R/ DIRER CHAR PART-I

P.S. CHAPAR
DIST. DHUBRI
ASSAM

10: AKHER ALI
S/O LATE MOZIBOR MONDAL
R/O HALDIYAPARA
P.S. CHAPOR
DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM AND ANR.
REP. BY THE PP, ASSAM

2:MAHAR ALI
S/O LATE BARAN ALI
R/O KHARSIMARI
P.O. AND P.S. JOGIGHOPA
DIST. BONGAIGAON
ASSAM
PIN-78338

Advocate for the Petitioner : MR. S ISLAM

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 24-03-2023

Heard Mr. S Islam, learned counsel for the petitioners. Also heard Ms. S.H Bora, learned Addl. PP, appearing for the State respondent No.1.

2. The petitioners, namely, **1. Ezzat Ali, 2. Sirag Ali, 3. Lalchand Ali, 4. Hobibur Rahman, 5. Jamaluddin, 6. Jamal Ali, 7. Sayed Ai, 8. Wahab Ali, 9. Hasem Ali** and **10. Akher Ali** have filed an application under section 482 Cr.P.C., with a prayer for quashing and setting aside the impugned order dated 16.03.2023, passed by the learned Additional Sessions Judge, Bilasipara in Sessions Case No.168/2012.

3. The learned Addl. PP has accepted notice on behalf of the respondent No.1 and has also received a copy of the petition.

4. I have considered the submissions at the bar.

5. It is submitted on behalf of the petitioners that in the instant case, the prosecution has examined 20 prosecution witnesses and 6 defence witnesses. On two occasions the arguments of the case was advanced before the predecessors of the present Additional Sessions Judge and the present Additional Sessions Judge joined at Bilasipara in the month of August, 2022. The prosecution reopened the case on 18.08.2022 and the first argument was advanced for the petitioners

on 08.09.2022 and the next date was fixed on 03.11.2022 for argument. The argument was advanced on 03.11.2022 but due to paucity of time the arguments could not be completed and the next date was fixed on 11.02.2022. Meanwhile, the Trial Court could not function due to pen down by the Bilasipara Bar Association from 07.11.2022 up to 11.01.2023. The case was finally fixed for argument on 16.03.2023 and the impugned order was passed on 16.03.2023.

6. It was observed by the learned Trial Court that arguments had been heard on several occasions and so no more time could be allowed to the defence counsel who was not well on the date fixed for argument i.e., 16.03.2023.

7. The learned counsel for the petitioners have annexed copies of documents on behalf of the learned defence counsel representing the petitioners at the trial Court in Sessions Case No.168/2012. The medical documents are marked as Annexure – 2 which are appended along with the petition of the learned defence counsel for the petitioners who was advised to take bed rest due to eye surgery.

8. I have considered the submissions at the bar. This case is a long pending case, continuing from the year 2012. It is true that arguments have been heard on several dates, but at the same time it is also true that the defence could not conclude the argument due to the eye surgery of the learned defence counsel. For the interest of justice, both the sides are to be heard. The petitioners have prayed for only one date to conclude the argument.

9. In view of my foregoing discussions, I deem it expedient to invoke the inherent jurisdiction under section 482 Cr.P.C. For interest

of justice, the order dated 16.03.2023 fixing the case for judgment is hereby set aside. The petitioners are afforded a last opportunity to conclude the argument within one day to be fixed by the learned trial Court.

10. In terms of the above, the petition stands disposed of.

JUDGE

Comparing Assistant