

GAHC010106902023



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

Case No. : WP(C)/2804/2023

MD. SAMED ALI
S/O LATE AFAJ UDDIN RESIDENT OF VILLAGE- KANDULIMARI, P.O-
KALATOLI BAZAR, P.S- CHHAYGAON, DIST- KAMRUP, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT
OF ASSAM, HOME DEPARTMENT, DISPUR, GUWAHATI-06

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI- 7

3:THE DIRECTOR OF HEALTH SERVICE
ASSAM
HENGRABARI
GUWAHATI-36

4:THE SUPERINTENDENT OF POLICE
KAMRUP
AMINGAON
GUWAHATI-21

5:THE SUPERINTENDENT OF GUWAHATI MEDICAL COLLEGE AND
HOSPITAL

BHANGAGARH.

6:THE OFFICER-IN-CHARGE
CHHAYGAON

POLICE STATION
P.O- CHHAYGAON
DIST- KAMRUP
ASSAM
PIN - 781124

7:THE I/C OF JURSHIMALI
OUT POST
P.O- JURSHIMALI
P.S- CHHAYGAON
DIST- KAMRUP
ASSAM

Advocate for the Petitioner : MR A N AHMED

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 22.05.2023

Heard Mr. A.N. Ahmed, learned counsel for the petitioner. Also heard Ms. S. Sarma, learned Govt. Advocate representing respondent nos.1, 2, 4, 6 and 7, and Mr. D. Upamanyu, learned standing counsel for the respondent nos.3 and 5.

2. In brief, the case of the petitioner is that his son, aged 14 years had died in a motor vehicle accident, which occurred on 05.06.2012. An FIR to that effect was lodged by the brother of the petitioner, namely, Munser Ali, which was registered as Jurshimali Police Out Post vide GD Entry No.78, corresponding to Chhaygaon P.S. Case No. 146/2012, under section 279/304A IPC. It is projected that accident information report was prepared on 15.06.2012, which contains all the necessary information regarding the accident. However, the petitioner has not been able to collect the relevant documents in support of the

accident. The petitioner claims that he had filed a claim petition before the MACT at Guwahati in the year 2019, being MAC Case No. 1581/2019, but the same could not proceed in the absence of documents.

3. Having regard to the grievance raised by the petitioner, the Court is of the considered opinion that under the provision of section 159 of the Motor Vehicles Act, it is provided as follows:

“Information to be given regarding accident.-- The police officer shall, during the investigation, prepare an accident information report to facilitate the settlement of claim in such form and manner, within three months and containing such particulars and submit the same to the Claims Tribunal and such other agency as may be prescribed.”

4. Therefore, from the above, it would appear that the information given regarding a road accident would be sufficient for the claim tribunal to register a proceeding, which has already been done.

5. It is projected in this writ petition that the petitioner has not been able to obtain a copy of the charge-sheet, MVI Report, Postmortem Report etc. It is also projected that RTI application has been submitted before the Superintendent of Police, Amingaon and only the copy of the GD Entry and copy of the FIR was provided to him.

6. In the considered opinion of the Court, a charge-sheet submitted in a criminal proceeding is not a document, a copy of which can be provided under RTI Act, and therefore, if the petitioner is the aggrieved person, he can always apply for certified copy of the records of the concerned criminal case where it has been submitted. Similarly, a postmortem report is not a document which can be furnished under the RTI Act as it is a record which is to be tagged with the concerned criminal proceeding. So long as the criminal proceeding is not

registered, the documents are available in the Prosecuting Inspector's office. The only item which is left out is the MVI Report, which the Tribunal is not powerless to call, if such a document is prepared.

7. Accordingly, the Court is inclined to close this writ petition as because the petitioner has an alternative remedy of obtaining copy of charge-sheet and postmortem report and insofar as the MVI report is concerned, the concerned Tribunal can always be moved to have the report called for from the competent authority. In the event the petitioner is refused the certified copy of charge-sheet and postmortem report, he is permitted to agitate his grievance in any appropriate manner, if required, to approach this Court again.

8. Accordingly, the Court finds no reason to keep this matter pending and accordingly, the writ petition stands closed with liberty to the petitioner to do the needful as he may so advised.

JUDGE

Comparing Assistant