

GAHC010130712023



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

Case No. : Crl.Rev.P./240/2023

DIPANKAR GUPTA AND 2 ORS
SON OF KALYAN KUMAR GUPTA
R/O P-32, SATGRAM, BIREN ROY ROAD, SOUTH 24 PARGANAS, WEST
BENGAL- 700061.

2: SRI ABHIJIT MAZUMDAR
S/O HUPENDRA NARAYAN MAZUMDAR
R/O 16/2
TARKA SIDHANTA LANE

P.O. BALLY
HOWRAH
WEST BENGAL-711201.

3: SRI MRINMOY BOSE
S/O MRINAL KANTI BOSE

R/O 81/4
RAJA SUBODH CHANDRA MULLICK ROAD

MAKTALA
CIRCUS AVENUE
KOLKATA
WESE BENGAL -70004

VERSUS

THE STATE OF ASSAM AND ANR
THROUGH THE PP, ASSAM

2:INSPECTOR OF POLICE

BI(EO)
ASSAM

GUWAHATI-781032 (INFORMANT)

Advocate for the Petitioner : MR K AGARWAL

Advocate for the Respondent : PP, ASSAM

BEFORE
THE HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY
ORDER

10.08.2023

1. Heard Mr. K. Agarwal, learned senior counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State of Assam.
2. The petitioners, namely, Sri Dipankar Gupta, Sri Abhijit Mazumdar and Sri Mrinmoy Bose have filed an application under Sections 397/401 read with Section 482 Cr.P.C. challenging the order dated 07.01.2021, 18.01.2021, 26.03.2021, 01.12.2021, 21.02.2023 & 12.04.2023 passed by the Court of the learned Additional Sessions Judge No. 1, Kamrup (M), whereby Non-Bailable Warrant of Arrests have been issued against the petitioners.
3. The petitioners have also assailed the continuance of the Sessions Case No. 04/2021 pending before the learned Additional Sessions Judge No. 1,

Kamrup (Metro) on the ground that the Assam Protection of Interest of Depositors (in Financial Establishments) Act 2000 (hereinafter referred as Act, 2000) has already been repealed by the Assam Protection of Interests of Depositors (in Financial Establishments) (Repealing) Act, 2022 (hereinafter referred as Repealing Act, 2022) inasmuch as the petitioners are charged with offences under Section 5 of the Act 2000 which was a sessions triable offence.

4. By the Repealing Act, 2022, the entire Act of 2000 was repealed without saving any action already taken under the Act, 2000. The other offences under which the Charge Sheet was file are under Sections 120(B)/406/420 IPC read with Section 4, 5, 6 of the P.C. & M.C.S.(B) Act, 1978 and such offences are triable either by Metropolitan Magistrate or by Chief Judicial Magistrate.
5. In that view of the matter and more particularly in view of the repeal of Act of 2000, the Sessions Court will have no jurisdiction to continue with the proceeding.
6. Such fact and contention has also not been disputed by Mr. P. Borthakur, learned Additional Public Prosecutor for the State of Assam. The learned Additional Public Prosecutor has not disputed the fact of repeal of Act of 2000 by the repealing Act of 2022.
7. This Court has given anxious considerations to the submission made by the learned counsel for the parties. Also perused the materials available on record.
8. Perusal of the provisions of the said Act, 2000 and Repealing Act of

2022, this Court is of an unhesitant view that the offences alleged now shall be triable either by the Metropolitan Magistrate or by the Chief Judicial Magistrate, (in the present case, the Chief Judicial Magistrate, Kamrup (M)) inasmuch as the offences triable has already been repealed before framing of charge.

9. In that view of the matter, the proceeding of Sessions Case No. 04/2021 pending before the learned Additional Sessions Judge No. 1, Kamrup (Metro), is directed to be closed and the record be transferred to the learned Chief Judicial Magistrate, Kamrup (M) for proceeding with the matter.
10. Considering the matter in entirety and nature of the offence, this Court is of the view that the natural corollary of closing the proceeding pending before the Sessions Court shall invariably mean that Non Bailable Warrant of Arrests issued shall not be executable.
11. On receipt of the record, in terms of the direction issued by this Court, learned Chief Judicial Magistrate, Kamrup (M) may proceed in accordance with law by issuing summons to the present petitioners.
12. The petitioners shall appears before the learned Chief Judicial Magistrate, Kamrup (M) on receipt of summons and file application for bail permissible under law.
13. Registry to communicate this order to the learned Additional Sessions Judge No. 1, Kamrup (Metro) and also the learned Chief Judicial Magistrate, Kamrup (M).

14. With the aforesaid direction, the present criminal revision petitioner stands disposed of.

JUDGE

Comparing Assistant