

GAHC010133232020



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

Case No. : W.P.(Crl.)/15/2020

RAJKUMAR PRITHVIRAJ NARAYAN DEV MECH
S/O- PRADIP NARAYAN DEV MECH,
PRESENT ADDRESS- GWJWNPURI, P.O. AND P.S.- KOKRAJHAR, DIST.-
KOKRAJHAR, BTAD, ASSAM,
PERMANENT RESIDENT OF VILL.- GOGLAPARA (W/N- 1), P.O. AND P.S.-
BASUGAON, DIST.- CHIRANG, BTAD, ASSAM, PIN- 783372.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM, HOME
AND POLITICAL DEPTT., DISPUR, GHY- 6.

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GHY- 7.

3:THE INSPECTOR GENERAL OF POLICE
BTAD
KOKRAJHAR
ASSAM.

4:THE SUPERINTENDENT OF POLICE
KOKRAJHAR
ASSAM.

5:THE SUPERINTENDENT OF POLICE
CHIRANG
BTAD
ASSAM.

6:THE SUPERINTENDENT OF POLICE
UDALGURI
BTAD
ASSAM.

7:THE SUPERINTENDENT OF POLICE
BAKSA
BTAD
ASSAM

Advocate for the Petitioner : MR. N H BARBHUIYA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 30-03-2023

None appears on call for the petitioner.

2. Mr. D. Mozumder, learned Addl. Advocate General assisted by Ms. D.D. Barman, learned Addl. Senior Govt. Advocate has submitted that the petitioner was unrepresented when the matter was listed on 23.03.2023 and even today he is absent on call. Accordingly, it is submitted that the petitioner is not interested to pursue this matter.

3. By filing this writ petition under Article 226 read with section 482 Cr.P.C., the petitioner has prayed for quashing of the FIRs registered against him in BTAD areas. The said FIRs registered are as follows:

- (i) FIR No.504/2020 registered at Kokrajhar P.S. under section 153/153A/182/506 IPC,
- (ii) FIR No.223/2020 registered at Dhaligaon P.S. under section

124A/295A IPC,

- (iii) FIR No.114/2020 registered at Fakiragram P.S. under section 153/153(A)/504/505 IPC read with section 67 of the IT Act.

4. The case projected by the petitioner is that on 03.09.2020 and 06.09.2020, he was interviewed by some local digital media wherein he had made a statement to the following effect: "*for the sake of electoral politics the United People's Party, Liberal (UPPL) in today's date is doing divisive politics and taking support of certain elements who irrespective of their caste, community and religion either follow or believe the ideology of Mohammed Ali Jinnah or Mir Jafar*".

5. Thereafter on 07.09.2020, one Md. Moinul Hoque belonging to UPPL Party had made a statement before the media and had provoked the Muslim community with regard to the aforesaid statement of the petitioner.

6. The petitioner claims that he has lodged an FIR against Md. Moinul Hoque before the Kokrajhar P.S. which was registered Kokrajhar P.S. case no.503/2020 under section 153/182/506 IPC. It is projected as a counter blast three FIRs were lodged against the petitioner. On a perusal of the said three FIRs, it appears that the text of all the three FIRs is similar to a great extent.

7. Be that as it may, the Court finds that the informants who had lodged the respective FIRs in Kokrajhar P.S. case no.504/2020, Dhaligaon P.S. case no.223/2020 and Fakiragram P.S. case no.114/2020 have not been arrayed as

party respondents in this writ petition.

8. Had the prayer been made only under section 482 Cr.P.C., it was quite possible that it would have been heard and appropriate orders for filing of the FIRs would have been made. However, this application is registered as a writ petition and therefore, the Court can only adjudicate the matter in the presence of persons who have lodged the FIR and they are required to be heard by putting them to notice. However, the parties who had lodged the FIRs are not parties, therefore the Court finds that the said prayer cannot be granted in the absence of the proper necessary parties.

9. It may be mentioned that this Court by order dated 29.07.2022, had required that the learned counsel for the petitioner to satisfy the Court on the maintainability of the writ petition under Article 226 and 227 of the Constitution of India for quashing of the FIR registered against the petitioner in the BTAD areas. However, the issue of maintainability was not raised for application made under section 482 CR.P.C. It is also observed that as per order dated 20.12.2022, the Court had recorded the submission made by the learned Addl. Advocate General that as the prayer is to quash the FIR and therefore, it is required to be examined as to whether in a writ petition the concerned police station and/or the concerned IO is a proper and necessary party. Accordingly, the learned counsel for the petitioner had prayed for and was granted time to obtain instructions and to take appropriate steps. Thereafter, the learned counsel for the petitioner was absent on call on 14.03.2023. By order dated 29.07.2022, this Court had reiterated the requirement of the learned counsel for the petitioner to satisfy the Court on the maintainability of the writ petition.

Thereafter the matter was listed on 23.03.2023, and the petitioner remained unrepresented on call again.

10. Therefore, it appears that the petitioner is not interested to pursue this writ petition and as such this writ petition stands dismissed for non-prosecution.

11. The interim order passed on 29.09.2020 stands vacated.

JUDGE

Comparing Assistant