

GAHC010152492023



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

Case No. : WP(C)/3983/2023

MANISHA DEWRI AND ANR
D/O MANIK DEWRI
R/O VILL- BANGALPARA
P.O. GARMARI
P.S. MORIGAON
DIST. MORIGAON, ASSAM
PIN- 782164

2: SAHIDUR RAHMAN
S/O LATE SAYED ALI
R/O VILL- JALUGUTI
P.O. JALUGUTI

P.S. MIKIRBHETA
DIST. MORIGAON
ASSAM
PIN-78216

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HOME DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE DIRECTOR GENERAL OF POLICE

ASSAM
ULUBARI
GUWAHATI-5.

3:THE SUPERINTENDENT OF POLICE

MORIGAON
DIST. MORIGAON

PIN-782164

4:THE OFFICER IN CHARGE OF MORIGAON POLICE STATION

DISTRICT - MORIGAON

PIN-782164

5:PANKAJ BORDOLOI
S/O BIPUL SING BORDOLOI
R/O VILL- JALUGUTI
P.S. MIKIRBHETA
DIST. MORIGAON
ASSAM
PIN-78216

Advocate for the Petitioner : MR. A AHMED

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 18-07-2023

Heard Mr. A. Sarma, learned counsel for the petitioners. Also Mr. M. Chutia, learned Government Advocate appearing for the respondent nos. 1 to 4.

2. In view of the order proposed to be passed, issuance of the notice on the State respondent nos. 1 to 4 as well as private respondent no. 5 is dispensed with.

3. The petitioner no. 1 is the wife of respondent no. 5. It is projected that due to physical and mental torture, the petitioner left her matrimonial home and is residing in the house of petitioner no. 2 as a tenant, paying nominal rent. It is projected that the petitioner had informed the respondent no. 5 about leaving

the matrimonial home on 20.05.2015. However, the husband, i.e the respondent no. 5 had lodged an FIR on 21.05.2023 regarding missing of his wife i.e petitioner no. 1, which was registered as missing report no. 66/2022 before the Morigaon Police Station. The learned counsel for the petitioner has submitted that the police personnel had come to the house of the petitioner no. 2 and the petitioner no. 1 had informed the police personal that she has left the matrimonial home. Therefore, the petitioners have approached this Court for protection of their respective life and liberty by praying for quashing the missing report in respect of the petitioner no. 1.

4. In this case, the petitioner has projected that on 20.05.2023, she had sworn affidavit, thereby declaring dissolution of her marriage with the respondent no. 5. The proposition of the petitioner no. 1 is legally not acceptable as the manner in which dissolution of a Hindu Marriage has purportedly been done is not in accordance with law. If the petitioner no. 1 has any intention to dissolve her marriage, there is appropriate Court/forum to enable the petitioner no. 1 to do so. At present, the Court is unable to accept the dissolution of marriage in respect of petitioner no. 1 with respondent no. 5. The petitioner no. 1 has also not explained why she could not go back to her parental home, and/or why she is staying in the house of the petitioner no.2. Moreover, surprisingly, the address of the petitioner no. 1 and the petitioner no. 2 in the cause title of this writ petition are different.

5. Be that as it may, if the petitioner no.1 has left her matrimonial home, notwithstanding the missing report filed against her, if so advised, she can still appear before the Court of the Chief Judicial Magistrate, Morigaon or before the Court of the jurisdictional Magistrate. The petitioner no.1, if so advised, may also make a prayer to have her statement of leaving her matrimonial home

recorded by such Magistrate. If the petitioners are actually threatened by any person, it would be open to them to lodge their complaint before the concerned police station.

6. Admittedly, the petitioner no. 1 has not obtained any decree and/or order against the respondent no. 5 either of judicial separation or divorce. Therefore, on the said ground this Court is not inclined to entertain this writ petition and the same is dismissed at the motion stage without issuance of notice upon the respondents.

7. However, it would be open to the petitioner no. 1 to approach the jurisdictional Judicial Magistrate as indicated herein before, if so advised.

JUDGE

Comparing Assistant