

GAHC010164412022



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

**Case No. : Crl.Pet./821/2022**

UBAIDULLAH MASKUR BARBHUIYA AND ANR.  
S/O MOULANA AYUB ALI BARBHUIYA,  
R/O VILL- SRIKONA PART-II P.O. SRIKONA, P.S. SILCHAR, DIST. CACHAR,  
ASSAM

2: NURULLA MANSUR BARBHUIYA @ NUR ULLAH MONSUR BARBHUIYA  
S/O MOULANA AYUB ALI BARBHUIYA

R/O VILL- SRIKONA PART-II  
P.O. SRIKONA  
P.S. SILCHAR  
DIST. CACHAR  
ASSA

VERSUS

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

2:SMTI. TASLIM MONIAR @ TASLAIM MONIR  
W/O MASUK AHMED BARBHUIYA  
VILL- MOHANPUR PART-III

P.O. MOHANPUR  
P.S. ALGAPUR

DIST. HAILAKANDI  
ASSA

**Advocate for the Petitioner : MR. A M BARBHUIYA**

**Advocate for the Respondent : MR. B B GOGOI(ADDL.PP, ASSAM)**

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

**JUDGMENT**

**Date : 11-05-2023**

**1.** Heard Mr. A.M. Barbhuiya, learned counsel for the petitioners. Also heard Mr. B.B. Gogoi, learned Addl. P.P. for State Respondent No. 1 and Mr. B. Saharia, learned counsel for respondent No. 2.

**2.** The petitioners namely, [1] Ubaidullah Maskur Barbhuiya and [2] Nurulla Mansur Barbhuiya @ Nur Ullah Monsur Barbhuiya have filed an application under Section 482 of the Code of Criminal Procedure [Cr.PC for short] with prayer for quashing a First Information Report [FIR for short] of Algapur P.S. Case No. 18/2022 under Sections 364(A)/34 of Indian Penal Code [IPC for short] and the proceeding of the G.R. Case No. 144/2022.

**3.** The FIR unfolds that on 23.01.2022 at about 7/8 PM Masuk Ahmed Barbhuiya went to Badarpur for an urgent work along with Baharul Islam Barbhuiya. While they were returning home at about 9:30 PM an Alto car without any registration number stopped in front of the Ford Vehicle occupied by Masuk Ahmed Barbhuiya near Chiparsangan Bridge. The miscreants in the Alto car kidnapped Baharul Islam Barbhuiya who was with Masuk Ahmed Barbhuiya in the car. At about 11.30 PM the kidnapers made a phone call to the mobile phone of a neighbour Hussain Ahmed Laskar. The kidnappers demanded a ransom of Rs. 15 lacs to release Baharul Islam Barbhuiya. They also threatened to kill the victim if the ransom was not paid. On 24.01.2022 at about 9 AM phone calls were made from different numbers demanding Rs. 30 lacs and again Rs. 11 lacs as ransom which was to be paid in exchange of the kidnapped victim who was to be released at ISBT, Silchar. The kidnappers again made a

phone call to Sahed Ahmed Mazumdar demanding the ransom. Masuk Ahmed Barbhuiya's wife Taslim Monir lodged the FIR.

**4.** It is submitted on behalf of the petitioners that nobody was kidnapped. There was a monetary dispute and Masuk Ahmed Barbhuiya went to Silchar to pay the outstanding dues to the petitioners. The monetary dispute was regarding business transaction. Due to a misunderstanding during the telephonic conversation, the respondent No. 2 lodged the FIR. Meanwhile the matter was amicably settled between the parties and Memorandum of Understanding dated 17.03.2022 was executed in the presence of the victims and other witnesses. That apart, one representation was also submitted by the informant and the alleged victims before the OC, Algapur P.S. praying for releasing the petitioners. As the case is not compoundable, the IO could not absolve or exonerate the petitioners, but in view of the amicable settlement between the parties, the petitioners were granted bail by this Court vide order dated 08.04.2022 in Bail Application No. 800/2022. The Memorandum of Understanding dated 17.03.2022 is marked as Annexure-2 and appended along with the petition. The petitioner No. 1 is a successful businessman and the petitioner No. 2 is pursuing Ph.D. degree in the Department of Computer Science under the Assam University and is presently working as Principal of Al-Aksa National Academy, Srikona, Cachar and the petitioners' father is a retired Principal of a Government School. Both the parties are not interested to proceed with the case.

**5.** I have scrutinized the Annexure-2 which clearly reveals that the dispute has been amicably settled between both the parties. The affidavit-in-opposition submitted by the respondents clearly reveals that the dispute arose on a misunderstanding regarding monetary transaction between both the authorities. The petitioner relied on the decision of a co-

ordinate Bench of this Court in Criminal Petition No. 1005/2017 wherein it has held vide order dated 18.04.2018 that –

*“Law was laid down way back in the case of **Madhavrao Jiwaji Rao Scindia and anr. V. Sambhajirao Chandrojirao Angre & Ors. reported in AIR 1988 SC 709**, that a proceeding may be quashed, if the chances of an ultimate conviction are bleak and, therefore, no useful purpose likely to be served by allowing a criminal prosecution to continue. This is because otherwise the parties and the witnesses will be dragged to court and process of the court will be abused for no purpose. When the parties have already entered into compromise, even if they are dragged to court as witnesses, there is every likelihood of their turning back from the allegations and in that event, the learned court will be left with no other alternative, but to acquit the accused person. In that event, there will be unnecessary engagement of valuable judicial time and so taking a practical view of the matter, it appears to be proper to accept the reality and to put an end to the ongoing litigation.”*

**6.** This Court quashed a proceeding of G.R. Case No. 762 arising out of Lala P.S. Case No. 125/2013 under Sections 420/376/34 IPC on the strength of the judgment of *Madhavrao Jiwaji Rao Scindia and anr's case (supra)*.

**7.** In view of my foregoing discussions it is held that the original dispute was a dispute regarding monetary transaction between two private parties. The dispute is pre dominantly private in nature. Although the petitioners were alleged to have kidnapped the victim for ransom yet the respondent has filed an affidavit-in-opposition stating that this dispute was the result of a misunderstanding. The petitioners have also submitted that due to

misunderstanding during the phone call relating to the monetary transaction the FIR was lodged. Possibility of conviction appears to be remote and bleak. The parties have amicably settled their dispute. Even if they are dragged to court as witnesses, there is every likelihood of their turning back from the allegations. This will indeed be an abuse of the process of the Court.

**8.** In view of my foregoing discussions, petition is allowed and the FIR of Algapur P.S. Case No. 18/2022 under Sections 364A/34 IPC and the proceeding of the G.R. Case No. 144/2022 is hereby quashed and set aside.

**JUDGE**

**Comparing Assistant**