

GAHC010147182018



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

Case No. : Crl.Pet./654/2018

AKHTAR HUSSAIN
S/O ABDUS SUBHAN, R/O CLASSICAL APARTMENT, SIJUBARI, PO AND PS
HATIGAON, DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY PUBLIC PROSECUTOR, ASSAM

2:ZENAT NAZMIN AHMED
D/O NURUZ ZAMAN AHMED
R/O ANUPAM NAGAR
ROSE LANE
HOUSE NO. 21
GUWAHATI-38
PS HATIGAON
DIST. KAMRUP (M)
ASSAM

3:AKKAS ALI
S/O LATE HABEZ UDDIN
R/O NOTBOMA
HOUSE NO.30
PO HATIGAON
PS HATIGAON
GUWAHATI-38
DIST. KAMRUP (M)
ASSA

Advocate for the Petitioner : MR. Y S MANNAN

Advocate for the Respondent : PP, ASSAM

Linked Case : Crl.Pet./782/2018

AKHTAR HUSSAIN
S/O ABDUS SUBHAN
R/O CLASSICAL APARTMENT
SIJUBARI
PO AND PS HATIGAON
DIST. KAMRUP(M)
ASSAM
GHY-38

VERSUS

FARHAN AHMED AND ANR.
S/O NURUZ ZAMAN AHMED
R/O ANUPAM NAGAR
ROSE LANE
HOUSE NO. 21
PO AND PS HATIGAON
GUWAHATI-28
DIST. KAMRUP (M)
ASSAM

2:AKKAS ALI
S/O LATE HARBEZ UDDIN
R/O NOTBOMA
HOUSE NO. 30
PO HATIGAON
PS HATIGAON
GUWAHATI-38
DIST. KAMRUP(M)
ASSAM

Advocate for : MR. Y S MANNAN
Advocate for : MS. A BHATTACHARYYA (R1) appearing for FARHAN AHMED
AND ANR.

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 29.08.2023

By this common order, the Criminal Petition No. 654/2018 as well as Criminal Petition No. 782/2018 are proposed to be disposed of.

Heard Ms. N. Dekaraja, learned counsel for the petitioner. Also heard Ms. A. Bhattacharyya, learned counsel for the respondent No. 2 in Criminal Petition No. 654/2018 and respondent No. 1 in Criminal Petition No. 782/2018.

It is submitted by learned counsel for the respondents that in a similar case which pertains to proceeding in connection to CR Case No. 2037C/2017 pending before the Court of learned Chief Judicial Magistrate, Kamrup(M), Guwahati, this Court by order dated 25.11.2021 passed in Criminal Petition No. 751/2018 had dismissed the said criminal petition on the ground that the dispute between the parties involved both question of fact as well as law and as question of facts are involved, the Court may not dwell into the said question in a petition under Section 482 of the Code of Criminal Procedure, 1973 and the matter was left for the parties to be agitated before the learned Trial Court where the evidence was to be recorded.

The learned counsel for the respondents has submitted that in the instant two cases also, namely, CR Case No. 2036C/2017 in Criminal Petition No. 654/2018 as well as CR Case No. 2038C/2017 in Criminal Petition No. 782/2018, the question of facts as well as law are involved and as the issue involves both the question of facts as well as law, the parties may be left to raise the said issues before the learned Trial Court and these cases are not fit cases to be quashed in exercise of powers under Section 482 of the Code of Criminal

Procedure.

The learned counsel for the petitioner agrees to the submissions made by learned counsel for the respondents and submits that she has no objection if these two criminal petitions are disposed of with an observation that the parties may raise their issues before learned Trial Court.

In view of the submissions made by learned counsel for the parties, Criminal Petition No. 654/2018 and Criminal Petition No. 782/2018 are hereby dismissed with liberty to the parties to raise the contentions before the learned Trial Court, if so advised.

Interim order, if any, are hereby vacated.

JUDGE

Comparing Assistant