

GAHC010178952023



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

Case No. : Crl.Pet./458/2020

JITUMONI DEKA
S/O SRI CHANDRA DEKA
R/O BORKOLA
MOUZA-PAKHIMORIA
P.S.-SADAR
DIST-NAGAON
ASSAM
PIN-

VERSUS

CHITRA BORDOLOI AND 2 ORS.
S/O SRI ASHOK BORDOLOI
R/O BORKOLA
MOUZA-PAKHIMORIA
P.S.-SADAR
DIST-NAGAON
ASSAM

2:MAMONI BORDOLOI
W/O CHITRA BORDOLOI
R/O BORKOLA
MOUZA-PAKHIMORIA
P.S.-SADAR
DIST-NAGAON
ASSAM

3:THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR A SHARMA

Advocate for : PP
ASSAM (R3) appearing for CHITRA BORDOLOI AND 2 ORS.

LINK CASE

I.A.(CrI.)/806/2023

JITUMONI DEKA,
S/O SRI CHANDRA DEKA, R/O BORKOLA, MOUZA-
PAKHIMORIA, P.S.-SADAR, DIST-NAGAON, ASSAM.

VERSUS

CHITRA BORDOLOI AND 2 ORS.
S/O SRI ASHOK BORDOLOI, R/O BORKOLA, MOUZA-
PAKHIMORIA, P.S.-SADAR, DIST-NAGAON, ASSAM

2:MAMONI BORDOLOI
W/O CHITRA BORDOLOI
R/O BORKOLA
MOUZA-PAKHIMORIA
P.S.-SADAR
DIST-NAGAON
ASSAM

3:THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR
ASSA

Advocate for the Petitioner : MR. B PHUKAN

Advocate for the Respondent : PP, ASSAM

BEFORE

THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
ORDER

20.09.2023

Heard Mr. B Phukan, learned counsel for the petitioner and Mr. M Dutta, learned counsel for the respondent No. 1.

2. The present application is filed under Section 482 of the Cr.P.C. for

quashing the FIR dated 30.08.2013 and charge-sheet No. 1193/2019 under Section 366/381 IPC registered as Nagaon Sadar PS case No. 2499/2019 and the connected IA is filed for setting aside the P&A dated 16.03.2022 as well as all NBWA issued against the applicant in connection with PRC case No. 242/2020.

3. From the FIR, it is revealed that the victim is the wife of the respondent No. 1 and according to the respondent No. 1, at the instigation of the present petitioner, one Bikash Mazumdar lured his wife and took away her. Subsequently, they were found in Lanka Police Station and accordingly, she was recovered and FIR was lodged.

4. On the basis of the said FIR, said Bikash Mazumdar was arrested and subsequently, released on bail. However, though the present petitioner was also at the police station, he was not arrested.

5. In the meantime, the learned counsel for the respondent submits that victim lady/ his wife has already left him and married somebody else leaving the child with him. So he is having no objection in quashing the present FIR.

6. This court has called for the scanned copies of the record of the case. This court perused the statement of the victim recorded under Section 164 Cr.P.C. wherein the victim has implicated Bikash Mazumdar and the present petitioner too. Therefore, in view of such implication, this court is not inclined either to quash the FIR or the charge-sheet. However, as the charge-sheet has already been laid and nature of allegation against the present petitioner is not so serious, it is provided that the petitioner shall appear before the learned committal court and apply for regular bail and on appearance, the learned committal court shall consider his case for bail in the totality of the matter and in the peculiar circumstances of the present case inasmuch as in the considered opinion of this court, at this stage no fruitful purpose will be served if the petitioner is not granted bail.

7. While considering the case the learned committal court shall also consider the settled propositions of law enunciated in the case of ***Satender Kumar Antil vs. Central Bureau of Investigation*** reported in ***(2021) 10 SCC 773***.

8. In view of the peculiar facts and circumstances and nature of involvement of the present petitioner and the determination made hereinabove, the NBWA issued against the present petitioner is hereby set aside and quashed.

9. Accordingly, both the Criminal Petition and IA stand disposed of.

JUDGE

Comparing Assistant