

GAHC010190372018



IN THE GAUHATI HIGH COURT
(The High Court of Assam: Nagaland: Mizoram &
Arunachal Pradesh)
Crl. Pet. 853/2018

Kalindra Roy

(Not Kulendr Aroy As Mentioned In The Charge Sheet),

S/O Sri Parin Roy

Vill- Godharbari

P.S. Agia

Dist. Goalpara, Assam, Pin - 783120

..... Petitioner

Versus

The State Of Assam And Anr.

Rep. By The Pp, Assam

2:Smti. Jonali Barman

W/O Bulbul Barman

Vill- Godharbari

P.S. Agia

Dist. Goalpara

Assam

Pin - 783120

M-703527557

..... Respondents

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

Advocate for the Petitioner : Mr. B.C. Das
Advocate for the Respondent : Mr. K.K. Das, Addl. P.P.
Date of Hearing : **04.05.2023**
Date of Judgment : **04.08.2023.**

Judgment and Order (CAV)

1. Heard Mr. B.C. Das, learned counsel for the petitioner as well as Mr. K.K. Das, learned Addl. P.P. for respondent no. 1.
2. The petitioner, namely, Kalindra Roy, has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 (CPC for short) with prayer for quashing the proceedings of G.R. Case No. 1341/2017 arising out of Agia P.S. Case No. 117/2017, registered under Section 287/338 IPC. The informant is arrayed as respondent no. 2. The FIR unfolds that on 02.07.2017 at about 1.00 P.M., the informant's husband Bubul Barman went for husking paddy in the Husking Mill owned by Parin Roy. As Bubul Barman was pouring paddy, a pigeon from Parin Roy's house came flying, which got the Gamocha worn by Bubul Barman stuck to the fan and as a result Bubul Barman sustained grievous injuries on his belly. He was taken to the nearest Primary Health Centre at Agia and thereafter, he was taken to the Goalpara civil Hospital for treatment. From Goalpara Bubul Barman was referred to the GMCH for better treatment. There was a delay in lodging the FIR, as the respondent no. 2 was busy with her husband.

3. The FIR was registered as Agia P.S. 117/2017, under Section 287/338 IPC. Investigation commenced and finally, charge-sheet was laid against the petitioner under Section 287/338 IPC. Notices were served upon the respondent no. 2 i.e. the informant but the respondent no. 2 failed to appear.

4. The scanned copies of the LCR reflect that this case was pending at the stage of appearance. The charge was yet to be framed against the petitioner.

5. Section 287 IPC reads:-

*287. **Negligent conduct with respect to machinery.**—Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.*

Section-338 IPC reads:- ***Causing grievous hurt by act endangering life or personal safety of others:-*** *Whoever causes [grievous hurt](#) to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.*

6. The FIR marked as Annexure-1 does not make out a case under Section 287/338 IPC. No overt act was attributed to the owner of the husking mill i.e. Parin Roy. Parin Roy has passed away and son Kalindra Roy is present on his behalf. The FIR does not prima facie

incriminate that Parin Roy was responsible for the injuries sustained by the informant's husband. No injury report is also available in the LCR, suggesting that the informant's husband sustained grievous injuries. It appears that further proceedings will be abuse of the process of the Court.

7. In view of my forgoing discussions, I deem it to proper invoke the inherent jurisdiction under Section 482 Cr.P.C and quash, the criminal proceeding of G.R. Case No. 1341/2017 arising out of Agia P.S. Case No. 117/2017, under Section 287/338 IPC.

JUDGE

Comparing Assistant