

GAHC010190592023



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

Case No. : WP(C)/5007/2023

SHORBESH ALI
S/O- BISHA ALI, R/O- VILL.- PUB PANDUBA, P.O. AND P.S. BOGUAN, DIST.
GOALPARA, ASSAM, PIN- 783129.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, HOME AND
POLITICAL DEPARTMENT, DISPUR, ASSAM, GUWAHATI-06.

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI-07.

3:THE SUPERINTENDENT OF POLICE
GOALPARA
DIST. GOALPARA
PIN- 783101.

4:THE OFFICER-IN-CHARGE
BOGUAN POLICE STATION
DIST. GOALPARA
ASSAM
PIN- 783129

Advocate for the Petitioner : MR. M ALI

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

06.11.2023

Heard Mr. M. Ali, learned counsel for the petitioner and Mr. H. Sarma, learned Additional Senior Government Advocate, Assam for all the respondents.

2. The case, in brief, projected in this writ petition is that at about 02-30 p.m. on 02.06.2022, the petitioner's minor son was requested by another minor boy, aged about 9 years, to accompany him to pick up mangoes from an orchard, belonging to a co-villager, located in the same village. The petitioner had alleged that his minor son was, thus, taken to the house of one co-villager and later on, the body of the petitioner's minor son was found hanging from a branch of a mango tree at the orchard of the co-villager. In respect of the said incident, the petitioner stated to have lodged a First Information Report [FIR] before the Officer In-Charge, Baguan Police Station against 3 [three] suspected accused persons, who are residents of Pub-Panduba, Police Station – Baguan, District – Goalpara. As the Officer In-Charge, Baguan Police Station did not register any case against the accused persons, the petitioner approached the Superintendent of Police, Goalpara alleging non-registration of the FIR. The FIR on being forwarded by the Superintendent of Police, Goalpara, came to be registered by the Officer In-Charge, Baguan Police Station on 07.08.2022 as Baguan Police Station Case no. 46/2022 under Sections 302/34, Indian Penal Code [IPC]. Investigation ensued only thereafter.

3. The petitioner has preferred the instant writ petition with two-fold prayers, firstly, a direction to the respondents to arrest the accused persons in connection with Baguan Police Station Case no. 46/2022 and secondly, to make a proper and fair investigation of Baguan Police Station Case no. 46/2022.

4. When the writ petition was moved on 30.08.2023, the learned Additional Senior Government Advocate, Assam was asked to obtain instructions in the matter.

5. Mr. Sarma, learned Additional Senior Government Advocate, Assam who has received instructions regarding status of Baguan Police Station Case no. 46/2022, has submitted that the case, Boguan Police Station Case no. 46/2022 was investigated into and after completion of the investigation, the case has been returned in a final report vide Final Report no. 08/2023 dated 31.07.2023 due to lack of sufficient evidence.

6. Mr. Ali, learned counsel for the petitioner on being apprised of the fact of submission of final report in connection with Baguan Police Station Case no. 46/2022, has submitted that in view of the submission of the final report, the petitioner would like to prefer appropriate remedy available to him under the provisions of the Code of Criminal Procedure, 1973 and this writ petition can be closed at this stage.

7. In view of the above submission made by Mr. Ali, learned counsel for the petitioner, this writ petition is closed, reserving the liberty to the petitioner to avail appropriate remedy in respect of the Final Report no. 08/2023 dated 31.07.2023, as available to him under the provisions of the Code of Criminal Procedure, 1973.

8. The instruction placed by Mr. Sarma, learned Additional Senior Government Advocate, Assam be kept as part of the case record.

JUDGE

Comparing Assistant