

GAHC010209142022



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

Case No. : WP(C)/6689/2022

RITUL HUSSAIN
S/O- OMAR ALI AHMED, R/O- MOURI PAM, P.O. MANDIA, P.S. BAGHBAR,
DIST.- BARPETA (ASSAM), PIN- 781316

VERSUS

THE STATE OF ASSAM 4 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, HOME DEPTT.,
DISPUR, GHY, PIN- 781006

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GHY
PIN- 781007

3:THE SUPERINTENDENT OF POLICE
BARPETA
P.O. AND P.S. BARPETA
DIST.- BARPETA
ASSAM
PIN- 781301

4:THE OFFICER-IN-CHARGE
BARPETA SADAR P.S.
P.O. AND P.S. BARPETA
DIST.- BARPETA
ASSAM
PIN- 781301

5:SUBUDH KALITA
S/O- LT. NAREN KALITA

R/O- BARPETA METUAKUCHI
P.O. AND P.S. BARPETA
DIST.- BARPETA
ASSAM
PIN- 78130

Advocate for the Petitioner : MR. A M AHMED

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

07.02.2023

Heard Shri A.I. Uddin, learned counsel for the petitioner. Also heard Shri M. Chetia, learned State Counsel for the respondent nos. 1 to 4 whereas Shri B.N. Sharma, learned counsel has appeared for the respondent no. 5.

The petition was filed on the projection that the petitioner had married the daughter of the respondent no. 5 on 20.05.2022 before the Notary Public. However, the respondent no. 5 had lodged an F.I.R. on 18.05.2022. The petitioner was also granted pre-arrest bail in the said case. Thereafter, there were certain more incidents for which another F.I.R. was lodged in which the petitioner was arrested. The present writ petition has been filed for recovery of the alleged wife of the petitioner from the respondent no. 5. For ready reference, the prayer of the writ petition is extracted herein below:

- (i) Writ in the nature of Habeas Corpus shall not be issued directing the Official Respondents particularly Respondent Nos.3 and 4 to recover the wife of the petitioners from the clutches of the private Respondent No. 5 and produce her before this Hon'ble Court;

(ii) Cause or causes being shown and after hearing the parties Your Lordships would be pleased to make the Rule absolute and or such order further orders as Your Lordships may deem fit and proper in the facts and circumstances of the case.

In the course of this proceeding, the victim girl was directed to be produced and there were in-camera proceedings in which the victim girl had clearly stated that she would like to go to her parental house. In the meantime, it appears that the victim girl has also lodged an F.I.R. before the Superintendent of Police, Barpeta dated 28.12.2022. The said F.I.R. has been brought on records by way of an affidavit-in-opposition filed by the respondent no. 5 on 03.01.2023. Upon such development, Shri Uddin, the learned counsel for the petitioner submits that he would like to withdraw the writ petition.

Reacting to the said submission, Shri Sharma, the learned counsel for the respondent no. 5 has submitted that because of this present litigation, grave hardships have been caused to the respondent no. 5 and his daughter who had to be brought to this Court by police for in-camera proceedings. He has also projected many other things in the affidavit-in-opposition regarding the hardships. The averments made in the F.I.R. have also been highlighted wherein there are direct allegations of certain political leaders in the incident of taking away of his daughter.

Shri Sharma, the learned counsel accordingly submits that adequate compensation be directed to be paid to the respondent no. 5. The question of payment of compensation has to be decided in a proceeding instituted by the aggrieved party as there would be a requirement for adducing of evidence by competent witness. Therefore, the aspect of claim of compensation is left to the respondent no. 5 to be instituted in an appropriate proceeding.

However, considering the fact that this writ petition was instituted on certain

premises which are not legally tenable for which the victim herself had to be personally present, this Court while allowing the writ petition to be withdrawn imposes a cost of Rs.25,000/- (Rupees Twenty Five Thousand) only upon the petitioner. The cost may be deposited in the Registry of this Court which may be released to the respondent no. 5.

It is needless to state that the respondent no. 5 or the victim girl would be at liberty to pursue with the criminal cases lodged by them.

JUDGE

Comparing Assistant