

GAHC010231842023



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

Case No. : I.A.(Civil)/3114/2023

SANEKA PARVIN AND ANR
W/O- HAFIJUR RAHMAN,
VILL- SURUN, P.O.- PARAHARIPUR,
P.S.- ITAHAR,
DIST.- UTTAR DINAJPUR,
WEST BENGAL, PIN- 733143.

2: HAFIJUR RAHAMAN
S/O- GOLAM SAHID HOSSAIN

VILL- SURUN
P.O.- PARAHARIPUR

P.S.- ITAHAR

DIST.- UTTAR DINAJPUR

WEST BENGAL
PIN- 733143

VERSUS

THE UNION OF INDIA AND 9 ORS
TO BE REPRESENTED BY MINISTRY OF DEFENSE REPRESENTED BY THE
SECRETARY, RAISONA HILL, NEW DELHI.

2:THE STATE OF ASSAM
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM

HOME DEPARTMENT
DISPUR

GUWAHATI-06.

3:THE CHIEF OF THE ARMY STAFF
ARMY HEADQUARTERS
SOUTH BLOCK

DHQ
P.O.- NEW DELHI- 110011.

4:THE GENERAL OFFICER COMMANDING HQ 51 SUB AREA
C/O- 99 APO.

5:THE OFFICER COMMANDING 952 TPT COY TYPE A
C/O- 99 APO.

6:THE DEPUTY COMMISSIONER OF POLICE
CENTRAL ZONE
ULUBARI
GUWAHATI-07.

7:THE OFFICER-IN-CHARGE
SATGAON POLICE STATION
DIST.- KAMRUP(M)
GUWAHATI

ASSAM- 781171.

8:MUNENDER KUMAR
S/O- PITAM SINGH
(NO. 17006645X RANK- NK/VM)
A RESIDENT OF 952 TPT COY ASC
C/O 99 APO

PIN- 905952
PERMANENT RESIDENT- VILL. AND P.O.- SALEMPUR

P.S.- SALEMPUR

DIST.- BULANDSHAHR

UTTAR PRADESH
PIN- 203001.

9:CRV BHAI
RANK NK/MT
A RESIDENT OF 952 TPT COY ASC

C/O- 99 APO

PIN- 905952.

10:SUBEDAR MAJOR ANUP SINGH
A RESIDENT OF 952 TPT COY ASC

C/O- 99 APO

PIN- 905952

Advocate for the Petitioner : MR. A R BHUYAN

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 11-10-2023

Heard Mr. A.R. Bhuyan, learned counsel appearing for the writ petitioners. Also heard Ms. R. Devi, learned CGC appearing for the respondent Nos. 1, 3, 4 and 5 and Ms. S. Baruah, learned Govt. Advocate, Assam appearing for the respondent Nos. 2, 6 and 7. None has appeared for the respondent Nos. 8, 9 and 10.

This I.A. has been filed with a prayer to correct a typographical error in the order dated 04-10-2023 passed by this Court in W.P.(C) No. 4915/2023. The basic relief sought by the petitioners in the connected writ petition is for an order permitting medical termination of pregnancy of the writ petitioner No. 1 on the ground that she is a rape victim.

As per the statement made in the writ petition, the petitioner No. 1 had completed 21 weeks-03 days of pregnancy on the date of order dated 04-10-2023. However, it has been wrongly reflected in the said order that she had completed 28 weeks-03 days of pregnancy, as a result of which, despite the order dated 04-10-2023 the Gauhati Medical College & Hospital authority have shown reluctance to carry out the necessary procedure for medical termination of the pregnancy of the petitioner No. 1. As such, the instant

application has been filed seeking correction of the typographical error in the order dated 04-10-2023.

The learned counsel for the respondents have submitted that they would have no objection, if the prayer for correction of typographical error is allowed by this Court. Ms. R. Devi, learned CGC, however, submits that since investigation is still going on in connection with the police case registered on the basis of FIR lodged, the sample of the removed fetus be preserved as part of medical evidence, which may be used later on during the trial of the case, if charge-sheet is submitted.

Insofar as the typographical error is concerned, it is no doubt correct that on the date of issuing the order dated 04-10-2023, the petitioner No. 1, viz. Ms. Saneka Parvin had completed 21 weeks-03 days of pregnancy and not "28 weeks-03 days" as has been reflected in the order. Therefore, the recording of "28 weeks-03 days pregnancy" in the said order is clearly an error.

It is accordingly clarified.

Insofar as the request made by Ms. R. Devi for preserving the fetus is concerned, it will be open for the Investigating Officer to take appropriate steps in the matter towards that end, if so advised and no further order in this regard is deemed necessary in the present case.

With the above clarification and observation, this I.A. stands disposed of.

JUDGE

GS

Comparing Assistant