

GAHC010235202013



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

Case No. : Crl.Pet./839/2013

HEMANT KUMAR AGARWAL and ANR
S/O LT. SHANKER LAL AGARWAL R/O S J ROAD, ATHGAON, GHY.

2: BAJRANGBALI ISPAT PVT. LTD.
HAVING ITS OFFICES AND PRINCIPAL PLACE OF BUSINESS AT S S ROAD
ATHGAON
GHY-1 AND IS REPRESENTED BY ITS DIRECTOR

VERSUS

THE STATE OF ASSAM

2:THE CIRCLE OFFICER
NORTH GUWAHATI REVENUE CIRCLE
AMINGAON-31
GUWAHAT

Advocate for the Petitioner : MR.S P ROY

Advocate for the Respondent :

BEFORE

THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY

For the Petitioners :Mr. S P Roy, Advocate

For the Respondents : Ms. SH Bora, Additional PP, Assam

Date of Hearing : 11.09.2023

Date of Judgement : 11.09.2023

JUDGEMENT & ORDER (ORAL)

1. Heard Mr. SP Roy, learned counsel for the petitioners. Also heard Ms. SH Bora, learned Additional Public Prosecutor, Assam.
2. The present application is filed under Section 482 Cr.P.C. praying for quashing of Changsari PS case No. 67/2023 under Sections 182/406 IPC.
3. Mr. SP Roy, learned counsel for the petitioner submits that a bare reading of the FIR no cognizable offence is made out. Therefore, the police ought not to have registered the case and ought not to have started the investigation. Mr. Roy further submits that matter is civil in nature and there is no ingredient of any criminal offence not to say any offence under Section 182 or 406 IPC.
4. On the other hand, Ms. SH Bora, learned Additional PP submits that a case is made out inasmuch from the FIR it seems that the petitioner while purchasing agricultural plot of land filed an affidavit during the transfer that the said land shall not be used for non-agricultural purposes, however, the said land has been used for non-agricultural purposes. Therefore, an offence as registered is made out.
5. Perused the FIR. From the averment made in the FIR, following allegations can be summarized:
 - I. That the petitioner is using the schedule land scheduled in the FIR for non-agricultural purposes.

- II. At the time of seeking NOC for transfer of the aforesaid land an affidavit was filed to the effect that the schedule land will be used for agricultural purposes.
- III. However, such declaration has been violated and land has been used for non-agricultural purposes.
6. In the considered opinion of this court, even if the aforesaid allegation is read as a whole and accepted to be correct no prima-facie case is made out to proceed against the petitioner either under Section 182 or Section 406 IPC and the said allegation is civil in nature and at best it can be a violation of term of the NOC issued or transfer of the land and no criminal action can be attributed in the aforesaid background of the case.
7. The record called for also discloses that after filing of the FIR nothing has proceeded though no stay order was passed.
8. Considering the matter in its entirety, this court is of the view that no case under Section 182/406 IPC is made out as alleged.
9. Accordingly, the present criminal petition is allowed by quashing the proceeding of the Changsari PS case No. 67/2023 under Sections 182/406 IPC.

JUDGE

Comparing Assistant