

GAHC010256012022



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

Case No. : I.A.(Crl.)/804/2022

TARUN DAS SARMA
S/O- LATE HEMANTA DAS SARMA, R/O- CIRCULAR ROAD, P.O-
NABAPALLY, P.S- BARASAT, DIST- NORTH PARGANAS, WEST BENGAL,
PIN- 700126.

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:SAILENDRA SEAL
S/O- LABA RAM SEAL
R/O- PWD COLONY
LUMDING ROAD
P.S- DIPHU
KARBI ANGLONG
PIN- 782460

3:DILIP TERANG
S/O- LATE LONGIAI TERANG
R/O- VILL- LORULANGAO
KARBI ANGLONG
PIN- 782460

4:HEM CH TERONG
S/O- LATE S TERONG
R/O- VILL- LORULANGAO
KARBI ANGLONG
PIN- 782460

5:AMBIKA RONGPIPI
W/O- SRI RANJIT TERONG

R/O- VILL- RONGKHELAN
KARBI ANGLONG
PIN- 782460

6:ESTELLA TERANGPI
D/O- LATE JOHAR TERANG
R/O- UC CHURCH
DIPHU
KARBI ANGLONG
PIN- 782460

7:DIPALI ENGJAIFI
W/O- SRI MON SING TERANG
R/O- VILL- PARAKHOWA
P.O- HOWRAGHAT
KARBI ANGLONG
PIN- 782460

8:JUNALI RONGPIPI
W/O- SRI DHARAM SING TERANG
R/O- RONGMILI
WARD NO. 6
DIPHU
KARBI ANGLONG
PIN- 782460

Advocate for the Petitioner : MR. R BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

06.01.2023

Heard Mr R Bora, learned counsel for the petitioner and Mr P S Lahkar, learned Additional Public Prosecutor for the State of Assam.

This interlocutory application has been preferred by the applicant/petitioner, praying for extending the interim order dated 08.10.2018, passed by this Court, thereby recalling the order dated 02.11.2022 and all subsequent orders passed by the learned CJM, Karbi

Anglong at Diphu, in GR Case No. 282/2010.

It is submitted by the learned counsel for the petitioner that the petitioner has filed an application under Section 482 CrPC, seeking quashment of the proceeding of GR Case No. 282/2010 and after hearing the parties, this Court has stayed the proceeding of the case, by order dated 08.10.2018, but the learned trial Court has proceeded with the matter and passed order(s) accordingly against other accused persons including the present petitioner, in spite of the fact that the entire proceeding of the case was stayed.

Learned Additional Public Prosecutor has also submitted that as the entire proceeding of GR Case No. 282 of 2010 was stayed, the Magistrate has no further power to proceed with the case until the order of stay was vacated by this Court.

I have considered the submissions made by the learned counsel for both the parties and also perused the orders of the learned Magistrate.

It appears that this Court has passed the order dated 08.10.2018, which shows that on hearing of the respective learned counsel for the parties, further proceeding of GR Case No. 282 of 2010, pending in the court of learned CJM, Karbi Anglong, Diphu was stayed till the date fixed. By the subsequent orders passed by this Court dated 25.02.2019, 04.03.2020, 27.04.2020 and 15.06.2020, the interim order passed earlier was extended till the next date of listing. After 15.06.2020, the case has not been listed, but the learned Magistrate proceeded with the case by issuing warrant of arrest and P & A against the other accused persons including the present petitioner, in spite of the fact that further proceeding of GR Case No. 282 of 2010 was stayed as per order of this Court dated 08.10.2018. The learned Magistrate should understand the fact that as the further proceeding of the case was stayed by this Court, the Magistrate has no such liberty to proceed with the case against the other accused persons even though the quashing of proceeding was filed by the present petitioner only.

In view of above, the interim order passed by this Court on 08.10.2018, suspending the proceeding of the GR Case No. 282 of 2010, no steps are further required to be taken by

the learned CJM, Karbi Anglong, Diphu. It is, therefore, directed that the subsequent orders passed by the learned CJM/Addl. CJM, Karbi Anglong, Diphu, by issuing warrant of arrest and P&A, are not permissible in law.

Consequently, the prayer of the applicant is allowed. The interim order passed earlier on 08.10.2018, staying the further proceeding of GR Case No. 282 of 2010, is extended accordingly.

Registry is directed to send a copy of this order to the concerned Magistrate to do the needful and the matter be informed to the learned District & Sessions Judge, Karbi Anglong, Diphu, for necessary information.

Interlocutory Application stands disposed of.

JUDGE

Comparing Assistant