

GAHC010260742023



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

Case No. : Crl.Pet./1233/2023

RAJU GHOSH @ BAPAN GHOSH AND ANR
S/O SRI PRABHAT GHOSH
R/O LUMDING, CHANDMARI BASTI
P.O. LUMDING
P.S. LUMDING,
DIST. NAGAON, ASSAM

2: SRI MANTOSH PAUL
S/O LATE BHUPESH RANJAN PAUL
R/O LOWER BABUPATTY
LUMDING
P.O. AND P.S. LUMDING

DIST. NAGAON
ASSA

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:OLI TALUKDAR
D/O LATE JOGENDRA NATH TALUKDAR
R/O UPPER BABUPATTY
P.S. LUMDING
PIN-782447
DIST. NAGAON
ASSA

Advocate for the Petitioner : MR. N K KALITA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 23.11.2023

Heard Mr. N. K. Kalita, learned counsel for the petitioner. Also heard Ms. S. Jahan, learned Additional Public Prosecutor for the State respondent.

This application under section 482 of the Code of Criminal Procedure, 1973, have been filed by the petitioners, namely,(1) Raj Ghosh @ Bapan Ghosh, and (2) Mantosh Paul praying for quashing of the FIR dated 29.11.2011. On the basis of which Lumding P. S. Case No. 291/2011 under section 447/324/506/34 of the IPC was registered. Subsequently, section 109/307 of the IPC was added thereto and after completion of the investigation of the said case charge-sheet was laid against the present petitioners as well as 7 other accused persons showing one of the co-accused as an absconder in the charge-sheet.

It is submitted by the learned counsel for the petitioner that though the FIR in this case was registered in the year 2011 and the charge-sheet was laid on 29.10.2012 and thereafter, charges were framed against the present petitioners on 17.11.2015 and thereafter, though the case was fixed for examination of prosecution witnesses not even a single witness has yet been examined in the meanwhile some of the co-accused have defaulted and the case is pending for examination of the Executing Officer of the warrants of arrest issued against the absconding accused persons.

Learned counsel for the petitioners has submitted that the petitioners continuously appearing before the learned trial court since year 2012 after filing of the charge-sheet, however, the trial of the case No. 259/2015 has not been progressed any further after the framing of charges.

Learned counsel for the petitioner has fairly submitted that though he has prayed in this instant criminal petition for quashing of the FIR and quashing of the charge-sheet, however, even if a direction are issued for expediting the trial of the present petitioners, he would get the necessary relief.

Learned Additional Public Prosecutor also does not object to the said prayer.

I have considered the submissions made by learned counsel for the petitioners as well as learned Additional Public Prosecutor on perusal of the documents annexed along with criminal petition.

It appears that though the charges were framed against the present petitioners on 17.11.2015 i.e., about 8 years ago, however, since then not even a single witness has been examined in the said trial by the prosecution side only on the ground that the presence of other co-accused could not be procured and the joint trial of all the accused persons against whom the charge-sheet has come to a standstill.

As from the documents annexed along with criminal petition, it appears that the petitioner are regularly appearing before the learned trial court, this criminal petition is disposed of with a direction to the learned trial court to expedite the trial of the present petitioner, if necessary by splitting up the case of the present petitioners from that of absconding accused persons and to dispose of the case of the present petitioners as early as possible.

With above directions this criminal petition is hereby disposed of.

JUDGE

Comparing Assistant