

GAHC010263102022



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

Case No. : Crl.Pet./1340/2022

ALA UDDIN LASKAR @ LALA MIA
S/O SUKKUR ALI
R/O VILL- RUPAIBALI TINMUKHI, P.S. LAKHIPUR, DIST. CACHAR, ASSAM

VERSUS

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

2:GITA PASHI
W/O CHANDRAJIT PASHI
R/O VILL- CHOTOMAMDA
NEW BOSTHI
P.S. LAKHIPUR
DIST. CACHAR
ASSAM
PIN-78810

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 28.02.2023

Heard Mr. L.R. Mazumdar, learned counsel for the petitioner as well as
Mr. M.P. Goswami, learned APP for the State.

2. By filing this petition under section 482 CrPC, the petitioner has prayed for setting aside and quashing of the impugned order dated 12.11.2021 and subsequent orders passed in proceedings of Special (POCSO) Case No. 16/2017 by the Court of learned Special Judge, Cachar, Silchar.

3. The learned counsel for the petitioner has submitted that warrant of arrest was issued against the petitioner in violation of the law regarding to issuance of NBWA without exhausting other remedies. It is also submitted that this matter was filed on 21.12.2022 and the petitioner was not aware of the order dated 15.12.2022 passed by the learned trial Court. It is also submitted that the petitioner is ready and willing to appear before the learned trial Court in connection with the said proceedings.

4. The learned APP has objected to the prayer made by the petitioner.

5. Perused the scanned copy of the case records received from the learned trial Court. The scanned copy of the order sheet reveals that in the order dated 22.02.2021, the learned trial Court had recorded that the summons issued to the petitioner was returned after service, but he was absent without any steps. Therefore, NBWA was issued against the petitioner. Repetitive NBWAs were issued against the petitioner for his non-appearance, but the warrant of arrest issued by the learned Special Judge, Cachar, Silchar was returned without execution on many occasions. The orders issuing NBWAs were passed on 09.03.2021, 30.03.2021, 20.04.2021, 21.09.2021, 08.10.2021, 12.11.2021, 03.12.2021, 21.12.2021, 17.01.2022, 11.02.2022, 09.03.2022, 02.04.2022, 29.04.2022, 20.05.2022, 04.06.2022, 01.07.2022, 01.08.2022, 30.08.2022, 22.09.2022, 21.10.2022 and 17.11.2022.

6. Thereafter, by order dated 15.12.2022, the Court directed issuance of proclamation and NBWA against the petitioner. On the said date, the petitioner had filed petition no. 164/6 to inform the Court that this criminal petition would be filed before this Court. Although the petitioner was aware of the NBWA was issued against him, but intentionally he did not appear before the learned trial Court. By order dated 18.01.2023, the Court recorded satisfaction that proclamation issued against the petitioner has been duly promulgated.

7. Under such circumstances, having seen that the petitioner has evaded execution of NBWA for quite a long time and has been able to delay the progress of trial, on merit, Court does not find this to be a fit case to interfere with the impugned orders issuing NBWAs against the petitioner.

8. Nonetheless, as prayed for by learned counsel for the petitioner, the Court is inclined to observe that in the event the petitioner appear before the learned trial Court and makes a prayer for bail, it would be open to the learned Special Judge, Cachar, Silchar to pass appropriate orders as the said Court may deem fit and proper.

9. With the aforesaid observation, this criminal petition stands dismissed.

10. The Registry shall not issue certified/uncertified copy of any document from the scanned copy of case records.

JUDGE

Comparing Assistant