

GAHC010288222023



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

**Case No. : Crl.Pet./1399/2023**

BABLU NATH  
S/O NRIPENDRA NATH  
R/O VILL- RADHA NAGAR, P.O. AND P.S. RAMKRISHNA NAGAR,  
DIST. KARIMGANJ, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR  
THROUGH LD. PP, ASSAM

2:SMT. DIPIKA NATH  
W/O BABLU NATH  
D/O LATE MONI NATH  
R/O CHINATOLIA  
P.O. BOGOLIJAN  
P.S. AND DIST. NORTH LAKHIMPUR  
ASSAM  
PIN-78703

**Advocate for the Petitioner : MR. M H LASKAR**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

**ORDER**

**Date : 22-12-2023**

Heard Mr. M.H. Laskar, learned counsel for the petitioner.

The petitioner has filed this application under Section 482 of the *Code of Criminal Procedure* (Cr.P.C. for short) seeking quashing of the impugned order dated 24.03.2023 and subsequent orders in Misc Case No. 50/2021 passed by the learned Judicial Magistrate 1<sup>st</sup> Class, Lakhimpur, North Lakhimpur issuing NBWA against the petitioner.

It is submitted that without following proper procedure the warrant has been issued immediately when the petitioner was not present in the Court.

Also heard Mr. B.B. Gogoi, learned Additional Public Prosecutor for the respondent No. 1 State of Assam.

The learned Additional Public Prosecutor has accepted notice on behalf of the respondent No. 1, so no formal notice is required to be issued. However, sufficient copies of the petition be furnished during the course of the day.

I have considered the submissions at the bar with circumspection.

It is submitted on behalf of the petitioner that the petitioner was not aware that an ex-parte order was passed by the learned Judicial Magistrate 1<sup>st</sup> Class, Lakhimpur, North Lakhimpur in Misc Case No. 50/2021 as because the petitioner's address given by the respondent No. 2 was an incorrect address. The petitioner is a resident of Ramkrishna Nagar at Karimganj whereas the address given in the complaint petition is the Ramkrishna Nagar in the district of Lakhimpur. It is further submitted that the petitioner is a resident of Karimganj and not Lakhimpur.

Notice was issued to the petitioner in the wrong address and this was the reason why the petitioner was unable to appear before the trial Court and the ex-parte order dated 20.07.2022 in Misc Case No. 50/2021 was passed.

The issuance of NBWA against the petitioner was not warranted as the petitioner was not aware of the proceeding. The petitioner is willing to appear before the trial Court and the petitioner has preferred a revision against the ex-parte order dated 20.07.2022 in Misc. Case No. 50/2021. He is willing to contest the proceeding and abide by the law of the land.

Considering the submissions of the petitioner, the NBWA issued vide order dated 24.03.2023 and the subsequent orders of issuance NBWA against the petitioner in Misc. Case No. 50/2021 passed by the learned Court of Judicial Magistrate 1<sup>st</sup> Class is kept in abeyance for one month directing the petitioner to appear before the learned trial Court within a period of one month.

In terms of the above observations, this criminal petition is disposed of.

**JUDGE**

**Comparing Assistant**