

GAHC040008692024



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

Case No. : Crl.Petn./100/2024

Dari Kanu and Anr
Son of Late Dari Kage, presently works as Draftsman Grade II in Power Department,
Govt of Arunachal Pradesh presently residing at Abotany Colony Itanagar, PO and PS
Itanagar, Papumpare District, Arunachal Pradesh

2: Dr Tai Machung
Age:
Occupation :
Son of Late Tai Kania
permanent resident of Village Pagba
PO and PS Sangram
Papumpare District
Arunachal Pradesh present address Ganga Market near Hotel Blue Pine
PO and PS Itanagar
Papumpare District
Arunachal Pradesh

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Aso Dalbong, A Timung, Neelam Talum

Advocate for the Respondent : Ms. L. Hage, Addl. P P of AP,

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 24-10-2024

Heard Mr. Neelam Talum, learned counsel for the petitioners and Ms. Laxmi Hage, learned Additional Public Prosecutor for the State.

2. The present application is filed challenging the impugned orders dated 08.05.2024 and 12.06.2024 whereby formal charges were framed against the accused petitioner in connection with Sangram P.S. Case No. 55/2009 registered under Section 307 of the IPC read with Section 3 (1) (2) of the PDPP Act, 1984.

3. The FIR is quoted herein below:

Sub:- FIR against relatives of Dari Kanu

Sir,

Reference to above cited subject I am to inform you that Shri Dari Kanu was brought to the Palin CHC whom injured by his own relative.

After receiving the patient I and Sister Kipa Sonu GNM was attending the patient and doing stitching the cut injury. In the mean time one of the patients relative man handle me and try to struggle me then and there I just left the spot with emotional upset and told sister kipa Sonu to complete the stitching.

After that on 14th Oct 2009 at around 10.15PM the relative of patient Shri Dari Kanu come with weapon and destroyed my government quarter and attempted to murder me. By any means I escaped from them."

4. From the FIR it is seen that the accused petitioner was brought to the Palin CHC where the informant was a doctor and he treated the accused petitioner. It is also seen that the said informant doctor was manhandled

allegedly by the relatives of the accused petitioner and not by the accused petitioner.

5. In the aforesaid backdrop, the investigating authority initiated investigation and after completion of investigation opined that there is no evidence to charge the accused petitioner under offences under Section 307 of the IPC read with Section 3 (1) (2) of the PDPP Act, 1984. However, by the impugned order, the learned Judicial Magistrate, First Class Koloriang refused to accept such final form and framed charges under Section 447/451/341/323 of the IPC read with Section 3 of the PDPP Act, 1984.

6. I have perused the material available on record and it is seen that not only the informant but none of the witnesses has implicated the present accused petitioner in commission of the any of the offences as charged. Rather from the materials it is seen that the allegation is primarily against the unnamed relatives of the accused petitioner and at the time of occurrence of the offence, the petitioner himself was in the hospital and there is no whisper against the accused petitioner.

7. In the considered opinion of this Court, the investigating officer has rightly filed the final form by not sending the accused petitioner for trial. Therefore, the impugned order of the learned Magistrate framing charges, in view of the reasons recorded hereinabove, is not sustainable under the law inasmuch as there are no materials available on record even remotely suggesting commission of any offence that has been charged against the accused petitioner.

8. In view of the aforesaid the present petition is disposed of by setting aside and quashing the impugned orders dated 08.05.2024 and 12.06.2024 passed by the learned Magistrate in connection with Sangram P.S. Case No. 55/2009

registered under Section 307 of the IPC read with Section 3 (1) (2) of the PDPP Act, 1984.

9. The criminal petition stands allowed.

JUDGE

Comparing Assistant