

GAHC010006112024



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

Case No. : Crl.Pet./25/2024

PAPUNG DOLO AND ANR
PROPRIETOR OF M/S B.B. STEEL AND CORPORATION, R/O MOWB-II,
ITANAGAR, P.O. AND P.S. ITANAGAR, PAPUMPARE DISTRICT, ARUNACHAL
PRADESH.

2: SH. SEPI BAGAN
S/OLT. GUNGYA BAGANG
R/O VILL- JAYANG BAGANG
P.O. AND P.S. CHAYANG TAJO
EAST KAMENG DISTRICT
ARUNACHAL PRADESH

VERSUS

THE STATE OF ASSAM AND ANR
THROUGH LEARNED PP, ASSAM

2:BRAHMAPUTRA LOGISTIC PVT. LTD.
N.S. ROAD FATASHUL
GUWAHATI-781009
KAMRUP (METRO)
ASSAM REP. BY ITS AUTHORIZED SIGNATORY CUM MANAGER
SRI HEMANT KUMAR SHARMA
S/O VIDHDHAR SHARMA

Advocate for the Petitioner : MR M BASUMATARI

Advocate for the Respondent : PP, ASSAM

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

ORDER

Date : 11-01-2024

1. Heard Mr. R. Sonar, learned counsel for the petitioners *Mrs. Papung Dolo and Sh. Sepi Bagang*.
2. The petitioners have filed this application under *Section 482 of the Code of Criminal Procedure* seeking quashing of the impugned order dated 22.11.2023 passed by the learned Judicial Magistrate 1st Class, Kamrup (Metro) issuing Non-Bailable Warrant against the petitioners in connection with C.R. No. 2051/2015.
3. Heard Mr. D.P. Goswami, 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 to the respondent No. 1. However, sufficient copies of the petition be furnished to the learned counsel for the respondent No. 1 during the course of the day.
4. I have considered the submissions at the bar.
5. It is submitted on behalf of the petitioners that the petitioner No. 2 took on lease an excavator from the respondent No. 2 Brahmaputra Logistic Pvt. Ltd. To pay the amount for hiring an excavator, a cheque was issued, being cheque No. 211683 dated 25.04.2012 drawn on the State Bank of India, Seppa Branch, Arunachal Pradesh in favour of the respondent No. 2 i.e. Brahmaputra Logistics Pvt. Ltd. This cheque was however dishonoured due to insufficiency of funds. The respondent No. 2 then filed a complaint case being C.R. No. 2051/2015 under *Section 138 of the Negotiable Instrument Act, 1881* (the NI Act for short). During the pendency of the C.R. Case, the petitioner agreed to repay the

cheque amount and this case was pending for repayment of the cheque amount. The complaint petition is marked as Annexure-2. Annexure-5 is the petition through which the petitioner No. 2 prayed before the trial Court to accept the cheque amount. The petitioner No. 2 had prayed for compounding of the offence.

6. This case is pending since 18.02.2019 (Annexure-5A). Since 18.02.2019, no order was passed relating to the petition filed by the petitioner No. 2 being petition No. 7743 with prayer to deposit the fine amount and compound the offence. Meanwhile the petitioner's father expired in the year 2019 and his mother was also not well. The petitioner's mother was also passed away on 03.12.2023. Due to the unforeseen incidents, the petitioner No. 2 failed to appear before the trial Court and then, vide order dated 22.11.2023 NBWA was issued against the petitioners.

7. The petitioners are willing to appear before the trial Court and deposit the cheque amount for compounding of the offence. It is also submitted that the petitioners have prayed to be represented by the learned counsel and the petitioners' application for representation is still pending before the trial Court.

8. It is also submitted that the petitioner No. 1 not connected to this case. As the petitioner No. 1 is the proprietor of M/S B.B. Steel & Corporation, this case has been initiated against the petitioner No. 1.

9. It is also submitted that the petitioners are residents in a remote area, so, they had prayed to be represented by their learned counsel.

10. I have considered the submissions at the bar with circumspection. The petitioners have annexed the death certificate, prescription and medical documents marked as Annexure-6 series. I have also taken a pragmatic view

that the petitioners are willing to appear before the learned trial Court and deposit the cheque amount of the cheque which was dishonoured by the bank.

11. Considering all aspects, I deem it proper to pass an order directing the petitioners to appear before the learned trial Court. The NBWA issued against the petitioner vide impugned order dated 22.11.2023 passed by the learned Judicial Magistrate First Cass, Kamrup (Metro), Guwahati is hereby kept in abeyance for one month. The petitioners are directed to appear before the learned trial Court within one month. The trial Court may pass necessary orders as per law and as per merits of the case. The petitioners may press the petitions for representation as well as for compounding of the offence by accepting the cheque amount. Their petitions may be decided as per merits of their case.

Criminal Petition stands disposed of in the above terms.

JUDGE

Comparing Assistant