

GAHC010014102024



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

Case No. : Crl.Pet./71/2024

RAKESH KUMAR PAUL
S/O LATE RANJIT KUMAR PAUL
R/O HOUSE NO. 47, S AKTIGARH PATH, P.S. BHANGAGARH, DIST. KAMRUP
(M), GUWAHATI-781005

VERSUS

THE STATE OF ASSAM
THROUGH THE PP, ASSAM

Advocate for the Petitioner : MR. D DAS SR. ADV

Advocate for the Respondent : PP, ASSAM

BEFORE

HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI
O R D E R

23.01.2024

1. Heard Mr. D. Das, learned Senior Counsel appearing for the petitioner assisted by Mr. I. Bhuyan. Also heard Mr. M. Phukan, learned Public Prosecutor

appearing for the State respondent.

2. This is an application under Section 482 of the Code of Criminal Procedure, 1973 read with Articles 226 and 227 of the Constitution of India for setting aside the impugned order dated 22.06.2023, *inter-alia*, (a) rejecting the prayer of the Petitioner to direct the Prosecution to furnish the name of the person and/or persons who had visited the APSC Office and also reveal the names of the Officials APSC who were contacted by the Prosecution and/or further adjourn the hearing of the petition under section 243(2) Cr.P.C.; and (b) recording that the Petitioner was heard on Petition no. 1916/23 (i.e. petition dated 17.6.2023 under Section 243(2) of Cr.P.C., although the Petitioner had prayed for adjournment on the grounds stated in the petition dated 22.6.2023 being Petition No. 1961/23 and in fact, did not make any submission whatsoever on Petition No. 1916/23 thereby unreasonably denying hearing of the Petitioner's substantive application.

3. The grievance of the petitioner is that the petitioner has filed one petition bearing No. 1916/2023 in the petition under Section 243(2) of Cr.P.C. in connection with Special Case No. 05/2021 pending before the learned Special Judge, Assam, wherein, the petitioner sought the direction to the Competent Authority to produce a list of documents mentioned at page 30 of the petition running from serial No. I to serial No. XVII and also for causing inspection of the said documents in the office files/records in respect of ADO examinations held during the year, 2015, which are lying in the office of APSC. Thereafter, when the matter was listed before the Special Court on 17.06.2023, the Special Public Prosecutor has sought further time to produce few of the said documents, which is said to be in the custody of the APSC office. Thereafter, the prosecution by filing an objection petition to the petition no. 1916/2023, submitted that the

office of the APSC is busy in preparation of the main examination and accordingly, sought direction from the Special Court to direct the Secretary of the APSC to provide the subject documents within a time period of 10(ten) days. Thereafter, the petitioner filed another petition bearing No. 1961/2023 objecting to the manner in which the prosecution has contacted the defence witness in the office of APSC and sought direction from the Court to direct the prosecution to furnish the name of the person and/or persons, who had visited the APSC office and also reveal the name of officials of APSC, who were being contacted by the prosecution and further sought for adjournment of the hearing of the petition under Section 243(2) Cr.P.C.

4. Mr. D. Das, learned Senior Counsel by referring to the order dated 22.06.2023 passed in Special Case No. 05/2021 drawn the attention of this Court, that the Special Court have not entertained the prayers in the said two petitions filed by the petitioner i.e. petition No. 1961/2023 and 1916/2023. In fact, he submitted that the petitioners were denied hearing unreasonably.

5. Mr. M. Phukan, learned Public Prosecutor submits that he has no objections, if the said two petitions are heard by the Court below.

6. I have perused the order dated 22.06.2023, which is annexed as Annexure-8 in the petition and 22.01.2024 annexed as Annexure-12 in the additional affidavit filed on today i.e. on 23.01.2024. It appears that the prayers sought for in the aforesaid two petitions namely, petition no. 1916/2023 and 1961/2023 has not been dealt with. To that extent, the aforesaid two orders dated 22.06.2023 and 22.01.2024 are interfered with and accordingly, I direct the Court to re-hear the said two petitions being petition No. 1916/2023 and 1961/2023 in accordance with law. Accordingly, this petition is allowed.

7. With the above observation and direction, this petition stands disposed of.

JUDGE

Comparing Assistant