

GAHC010026902024



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

Case No. : Crl.Pet./146/2024

M/S PRANATI DEY @ PRANATI DEY GUHA
W/O SHRI SAIBAL GUHA @ DEY,
R/O VILL- JARANGDISHA, PBM ROAD, LUMDING TOWN,
P.O. LUMDING
P.S. LUMDING
DIST. HOJAI, ASSAM
PIN-782447

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE PP, DISPUR, GUWAHATI-6, ASSAM, PIN-781006

2:THE DIRECTOR GENERAL OF POLICE

GOVT. OF ASSAM

ULUBARI
GUWAHATI-07.

3:THE DEPUTY COMMISSIONER

HOJAI
DISTRICT- HOJAI
ASSAM
PIN-782435

4:THE SUPERINTENDENT OF POLICE HOJAI

DIST. HOJAI
ASSAM
PIN-782435

5:THE OFFICER IN-CHARGE
OF LUMDING POLICE STATION

LUMDING
DISTRICT- HOJAI
ASSAM
PIN-782435

6:THE INVESTIGATION OFFICER

LUMDING POLICE STATION
LUMDING.
DIST. HOJAI
ASSAM
PIN- 78243

Advocate for the Petitioner : MR. A K PURKAYASTHA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 28.03.2024

Heard Mr. A. K. Purkayastha, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 482 of the Code of Criminal Procedure, 1973 *read with* Article 227 of the Constitution of India praying for issuing a direction to the I.O. concerned to comply with the direction issued by the learned SDJM, Hojai vide Order dated 19.05.2023, passed in G.R. Case No. 3118/2021, corresponding to Lumding P.S. Case No. 212/2021.

3. It is submitted by Mr. Purkayastha, learned counsel for the petitioner, that the victim girl was kidnapped by the accused on 25.10.2021 from her residence at Lumding at 3.00 p.m. and in that context, an F.I.R. was lodged by the present petitioner, which was registered as Lumding P.S. Case No. 212/2024, under Section 366 of the Indian Penal Code. But, after investigation, the I.O. had filed the Final Report of the said case. Thereafter, on being aggrieved by the said Final Report, the petitioner appeared before the learned SDJM, Hojai and submitted a petition stating that her daughter had called her over phone for her recovery and therefore she suspects that her daughter may be used for illegal purpose and thus, the informant/present petitioner raised objection to the Final Report submitted by the I.O. and prayed for further investigation. He submitted that the I.O. has conducted the investigation hastily and without going through the root of the case, the I.O. filed the Final Report in this case. Accordingly, the learned SDJM, Hojai, vide Order dated 19.05.2023, directed the Officer-In-Charge of the Lumding Police Station to conduct further investigation of the case and to submit the Final Report expeditiously. But, in spite of the said direction from the learned SDJM, Hojai, the I.O. did not proceed with the further investigation of this case and also did not submit any Report before the learned SDJM, Hojai and hence, the present petition had to be instituted before this Court under Article 227 of the Constitution of India *read with* Section 482 of the Code of Criminal Procedure seeking appropriate direction to the respondent authorities, more particularly, the respondent Nos. 5 & 6, to conduct further investigation of this case arising out of Lumding P.S. Case No. 212/2021.

4. In this context, Mr. P. Borthakur, learned Additional Public Prosecutor, has

submitted that after the order passed by the learned SDJM, Hojai, the I.O. had conducted further investigation of this case and also recorded the statement of the informant on 02.03.2024. But, as per the I.O., the victim girl could not be brought and till date her statement also could not be recorded under Section 161 Cr.P.C., though it is stated by the I.O. in his report that her statement was recorded through Video Conferencing and the same is available in the Pendrive. But, from the perusal of the report of the I.O., it is seen that there is no certificate to authenticate the statement of the victim which may be available in the Pendrive.

5. Mr. Purkayastha, learned counsel for the petitioner, has submitted in this regard that the victim girl is still under anxiety and still in communication with her mother/informant and she expressed that she is still threatened by some persons and thus, the informant is in doubt that her daughter/victim girl might have been kept confined by the accused.

6. After hearing the submissions made by the learned counsels for both sides and also on perusal of the materials available on record as well as the Case Diary, it is seen that the I.O. had recorded the statement of the informant after the order passed by the learned SDJM, Hojai. However, after recording of the statement of the informant, no further steps have been taken by the I.O. for further investigation of this case nor he made any endeavour to record the statement of the victim under Section 164 Cr.P.C. by producing her before the concerned Court.

7. In view of above and also considering the entire facts and circumstances

of this case, I hereby direct the respondent authorities, more particularly, the respondent Nos. 5 & 6, to conduct the further investigation of this case and also to record the statement of the victim girl under Section 164 Cr.P.C. and to furnish the Final Report of investigation within a period of 3 (three) months from today.

8. A copy of this order be furnished to the learned Additional Public Prosecutor for his necessary communication.

9. In terms of above, this criminal petition stands disposed of.

10. The Case Diary be sent back.

JUDGE

Comparing Assistant