

GAHC010032442024



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

Case No. : Crl.Pet./323/2024

TOFIKUR RAHMAN BORAH AND 7 ORS
S/O GUL MOHAMMAD BORAH
R/O MOTIASIGA, KONWAR GAON,
NAHORTOL, P.S. NAZIRA, DIST. SIVASAGAR, ASSAM, PIN-785685

2: REHENA BORAH @ RAHANA BORAH
W/O GUL MOHAMMAD BORAH
R/O MOTIASIGA
KONWAR GAON

NAHORTOL
P.S. NAZIRA
DIST. SIVASAGAR
ASSAM
PIN-785685

3: JUMEE BORAH @ JUMEE NASER
W/O ABU SALEH MD. NASER
R/O D-22
OIL INDIA LIMITED CAMPUS NEAR DULIAJAN CLUB

DULIAJAN

DIST. DIBRUGARH
ASSAM
PIN-786602

4: MD. NASER @ ABU SALEH MD. NASER
S/O LATE MANIK ALI
R/O D-22
OIL INDIA LIMITED CAMPUS NEAR DULIAJAN CLUB

DULIAJAN

DIST. DIBRUGARH
ASSAM
PIN-786602

5: JASMINE ZAMAN BORA @ JESMEE BORA

W/O AKIBUZ ZAMAN
R/O DEMOW NEAR SURMOUNT POINT SCHOOL
DIST. SIVASAGAR
ASSAM
PIN-785662.

6: AKIBUR ZAMAN @ FAZAL @ AKIBUZ ZAMAN
S/O LATE ABDUL ABUD
R/O DEMOW NEAR SURMOUNT POINT SCHOOL
DIST. SIVASAGAR
ASSAM
PIN-785662.

7: SILMEE BORAH ALI @ SILMEE BORA
W/O NAZIMUDDIN ALI
R/O WARD NO. 6
NAZIRA NEAR LION CLUB P.S. NAZIRA
DIST. SIVASAGAR
ASSAM-785685

8: NAZIMUDDIN ALI
S/O NICE ALI
R/O WARD NO. 6
NAZIRA NEAR LION CLUB P.S. NAZIRA
DIST. SIVASAGAR
ASSAM-78568

VERSUS

HANNA YESMIN SHAIOD
D/O SHAIOD ALI
R/O BALIGHAT TINNI ALI
NEAR NATIONAL PRINTING PRESS
P.S. SIMOLUGURI
DIST. SIVASAGAR, ASSAM
PIN-785685

Advocate for the Petitioner : MR. DITUL DAS, MS TINLUNG

Advocate for the Respondent : MS. P BHATTACHARYA, MR. A BORUA

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

17.09.2024

Heard Mr. D. Das, the learned counsel appearing for the petitioners. Also heard Ms. P. Bhattacharjee, the learned counsel representing the sole respondent.

2. This an application under Section 482 of the CrPC praying for quashing the order dated 28.11.2023 passed by the learned Judicial Magistrate First Class, Jorhat in Misc. Case (DV) No.45/2019.

3. The respondent was married to the petitioner Tofikur Rahman Borah. The other petitioners are his relatives. Because of marital disputes, the respondent has filed dozens of cases against him and his relatives. All those cases were filed in the district of Sivasagar.

4. Now, the respondent has been pursuing her studies at Jorhat. So, she filed the present case in the court of Judicial Magistrate First Class, Jorhat.

5. Her husband and his relatives filed a transfer petition being TrP(CrI.) No.26 of 2019 before this Court for transferring the case to the district of Sivasagar. On 15.11.2021, this Court disposed of the said petition with a direction that the petitioners are at liberty to approach the court at Jorhat for seeking relief on the said subject.

6. Accordingly, the petitioners moved the trial court at Jorhat.

7. The learned trial court at Jorhat took cognizance of the fact that at the time of

filing of the petition under the Domestic Violence Act of 2005 (for short, "DV Act of 2005"), the respondent was staying at Jorhat in a rented house and was pursuing her studies at Jorhat.

8. The trial court held that the DV Act of 2005, is of quasi judicial nature and therefore, the principle of *dominus litis* is applicable in such a case. It means that the respondent is vested with the prerogative to choose the remedy and the forum if more than one remedy or forum is available. The court further held that since one limb of jurisdiction falls within the district of Jorhat where the aggrieved person has been living temporarily, she would be entitled to file the case at Jorhat seeking relief under the DV Act of 2005, irrespective of the fact that many other cases are pending between the said parties within the jurisdiction of another district.

9. I have considered the submissions made by the learned counsel of both sides.

10. This Court is of the opinion that the impugned order is a well reasoned one. Such an order does not require any interference of this Court. Therefore, the present petition is found to be devoid of merit and stands dismissed accordingly. The interim order relating to Misc. Case (DV) No.45/2019 stands vacated.

JUDGE

Comparing Assistant