

GAHC010050722024



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

Case No. : Crl.Pet./270/2024

SMT. PAHITI DAS
W/O SRI LALIT DAS, R/O VILL- HATISUNG, KOMAR CHUK, P.O.-HATISUNG
KUJIDAH, P.S.-JAJORI, DIST-NAGAON, ASSAM, PIN-782142

VERSUS

SMTI. SUNITA DAS
D/O NUMAL CHANDRA BORA, W/O SRI NABAJYOTI DAS, R/O VILL-
KACHDHARA KUMARGAON, P.O. AND P.S.-RAHA, DIST-MORIGAON,
ASSAM, PIN-782103

Advocate for the Petitioner : ALHAJJ I UDDIN

Advocate for the Respondent : MR. SARFRAZ NAWAZ (R-1)

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 29.04.2024

Heard Mr. A.I. Uddin, learned counsel for the petitioner and Mr. S.Nawaz, learned counsel for the opposite party.

2. By this application under Section 482 CrPC, the petitioner has prayed for quashing of the entire proceeding in connection with D.V. Case No.31/2023, pending in the court of

learned JMFC, Nagaon.

3. The petitioner is the mother-in-law of the opposite party who filed this criminal petition under Section 482 CrPC for quashing of the proceeding in connection with D.V. Case No.31/2023 pending in the Court JMFC, Nagaon.

4. It is the case of the opposite party that she was subjected to cruelty both by her husband and her mother-in-law i.e. the present petitioner and was driven away from her matrimonial home and thereafter she is living with her parents. Under such circumstances, the opposite party filed a complaint under Protection of Women from Domestic Violence Act 2005 (in short 'DV Act') and registered as D.V. Case No. 31/2023 before the Court of JMFC, Nagaon against her husband and mother-in-law for various reliefs under the DV Act.

5. Learned counsel for the petitioner has submitted that the petitioner being the mother-in-law of the opposite party had no role in the marital affairs of her son and daughter-in-law and that she has been unnecessarily dragged into the litigation by her daughter-in-law.

6. It is further submitted by the learned counsel that the petitioner is a 62 year old house wife residing in a joint family household with her husband, son and daughter in law. The petitioner has never indulged herself in any criminal or other anti-social activities whatsoever at any point of time.

7. It is further submitted by the learned counsel for the petitioner that the trial court by order, dated 28.06.2023 granted interim maintenance of Rs.10,000/- per month to the opposite party. Being aggrieved by the interim maintenance order, the son of the petitioner preferred an appeal before the Sessions court and the sessions court reduced the quantum of interim maintenance into Rs.7500/- per month. According to the learned counsel for the petitioner, the petitioner has nothing to say about the relationship between her son and daughter-in-law and the case is pending between them in different courts. But the petitioner is no way connected with the alleged offence. Learned counsel therefore, prayed to quash the proceeding against the petitioner by exercising the inherent power under Section 482 CrPC.

8. Per contra, learned counsel representing the opposite party refuted the said allegations by stating that in the complaint petition, it was alleged by the opposite party that along with her husband, her mother-in-law also always ill treated on every step of her daily life.

whenever her husband comes home on leave, her mother-in-law instigated him against her.

9. Learned counsel for the opposite party also has pointed out that as per complaint petition, on 10.07.2022, her husband and her mother-in-law assaulted her physically and dragged her out of their house. It was also alleged that after some days, her husband developed extra marital relationship with another girl for which tremendous violence was carried upon her. When she asked her husband regarding her extra marital relationship , she was assaulted by her husband and her mother in law fully supported him in this regard.

10. After hearing the learned counsel for the parties and a reading of the petition shows that after marriage between the opposite party and son of the petitioner, they lived together in her matrimonial home and out of their wedlock, a child was born. It also appears from the submission of learned counsel for the parties that there was an allegation made by the opposite party regarding domestic violence caused by the petitioner towards her daughter-in-law i.e. the opposite party. The grounds on which the quashing has been sought for are pure question of facts and while exercising revisional jurisdiction, it is not for this court to adjudicate, which version of the case is true whether it is the version of the complainant or that of the present petitioner. The same can only be adjudicated during trial on evidence and not otherwise. Therefore, the quashing of the proceeding is uncalled for.

11. The domestic violence is a very special legislation which provides a remedy for effective protection of rights of woman who are victims of violence of any kind occurring within the family. Since, there are *prima facie* materials in the complaint filed by the opposite party, the proceedings cannot be quashed at the threshold.

12. In view of the above, the criminal petition is dismissed and the learned trial court is directed to proceed with the case in accordance with law.

With the above observations, the criminal petition is disposed of accordingly.

JUDGE

Comparing Assistant