

GAHC010057812024



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

Case No. : WP(C)/1811/2024

TAZUL ISLAM
S/O- LATE YUSUF ALI,
R/O- NAHARPUR,
P.O.- MALUA, P.S.- BADARPUR,
DISTRICT- KARIMGANJ, ASSAM.

VERSUS

THE STATE OF ASSAM AND 15 ORS
TO BE REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
HOME DEPARTMENT, DISPUR,
GUWAHATI- 781006.

2: SUPERINTENDENT OF POLICE
KARIMGANJ
P.O. AND DISTRICT- KARIMGANJ.

3: OFFICER-IN-CHARGE
BADARPUR POLICE STATION
KARIMGANJ- 788806.

4: MOMOTAZ BEGUM
W/O- LATE TAJAMMUL HUSSAIN

R/O- VILLAGE AND P.O.- MAHAKAL

P.S.- BADARPUR
DISTRICT- KARIMGANJ.

5: FAZLUL ISLAM
S/O- LATE YUSUF ALI

R/O- NAHARPUR
P.O.- MALUA

P.S.- BADARPUR
DISTRICT- KARIMGANJ

ASSAM.

6:ABDUL AHAD
S/O- LATE ABDUL SUKKUR

R/O- NAHARPUR
P.O.- MALUA

P.S.- BADARPUR
DISTRICT- KARIMGANJ

ASSAM.

7:ABDUL BASIT
S/O- LATE ABDUL SUKKUR

R/O- NAHARPUR
P.O.- MALUA

P.S.- BADARPUR
DISTRICT- KARIMGANJ

ASSAM.

8:ABDUL QUDDUS
S/O- LATE ABDUL SUKKUR

R/O- NAHARPUR
P.O.- MALUA

P.S.- BADARPUR
DISTRICT- KARIMGANJ

ASSAM.

9:FAHIM AKTER
S/O- TAJAMMUL ALI

R/O- NAHARPUR
P.O.- MALUA

P.S.- BADARPUR

DISTRICT- KARIMGANJ

ASSAM.

10:SIKANDAR AHMED
S/O- LATE SAMED ALI

R/O- NAHARPUR
P.O.- MALUA

P.S.- BADARPUR
DISTRICT- KARIMGANJ

ASSAM.

11:SAFAT AHMED
S/O- LATE AKADDAS ALI

R/O- NAHARPUR
P.O.- MALUA

P.S.- BADARPUR
DISTRICT- KARIMGANJ

ASSAM.

12:SAHID AHMED
S/O- LATE AKADDAS ALI

R/O- NAHARPUR
P.O.- MALUA

P.S.- BADARPUR
DISTRICT- KARIMGANJ

ASSAM.

13:ABUL AHAD
S/O- LATE AKADDAS ALI

R/O- NAHARPUR
P.O.- MALUA

P.S.- BADARPUR
DISTRICT- KARIMGANJ

ASSAM.

14:NURUZ ZAMAN
S/O- LATE MOHAMMAD ALI

R/O- NAHARPUR
P.O.- MALUA

P.S.- BADARPUR
DISTRICT- KARIMGANJ

ASSAM.

15:BADRUZ ZAMAN
S/O- LATE MOHAMMAD ALI

R/O- NAHARPUR
P.O.- MALUA

P.S.- BADARPUR
DISTRICT- KARIMGANJ

ASSAM.

16:AMINUZ ZAMAN
S/O- LATE MOHAMMAD ALI

R/O- NAHARPUR
P.O.- MALUA

P.S.- BADARPUR
DISTRICT- KARIMGANJ

ASSAM

Advocate for the Petitioner : MR. N H MAZARBHUIYAN

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 05.04.2024

Heard Mr. N. H. Mazarbhuiyan, learned counsel for the petitioner. Also heard Mr. H. Sarma, learned senior counsel, Govt. Advocate for the respondent nos. 1, 2 and 3.

2. By filing the writ petition under Article 226 Constitution of India, the grievance expressed by the petitioner is that his brother had lodged an FIR on 22.02.2024 before the Officer-In-Charge of Badarpur Police Station through the Additional Superintendant of Police, Karimganj. However, the case was not registered and no investigation was initiated.

3. It is projected that the private respondents have dispossessed the petitioner and his family members from the plot of land measuring 3 Bighas and that they have also started construction of an Idgah over his land.

4. Accordingly, the petitioners has prayed for calling a report and directing the state respondents to take appropriate actions and to direct the respondent nos. 4 to 16 to maintain status-quo in respect of the land of the petitioner.

5. The learned Senior Govt. advocate has raised the issue of maintainability.

6. We find that in the event the police does not register a complaint, the petitioner, who is an aggrieved person, has the liberty of making a complaint before the Superintendent of Police under section 154 (3) CrPC and even if it does not yield any satisfactory result, it is open to the aggrieved person to file an application under Section 156 (3) CrPC before the learned jurisdictional Magistrate concerned. Under the scheme of Criminal Procedure Code, we do not find that the Magistrate cannot issue a direction or registration of FIR or for directing a proper investigation to be made and we also find the Magistrate is amply empowered to monitor the investigation and to ensure a proper

investigation.

7. The Criminal Procedure Code also contains provisions by which the offenders of breach of peace may be directed to maintain peace and for the appropriate court to initiate proceedings under Section 144 and 145 CrPC.

8. Therefore, as the petitioner has alternative remedies available to him, the Court is not inclined to entertain this writ petition. In this regard, the Court is guided by the dictum of the Supreme Court of India, in the case of *Sakari Vasu Vs. State of UP and others*, (2008) 2 SCC 409. Therefore, this writ petition stands closed without issuance of notice upon the respondents.

9. Be that as it may, the petitioner shall be at liberty to avail alternative remedy as may be available to in and accordance with law.

JUDGE

Comparing Assistant