

GAHC010070422023



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

**Case No. : Crl.Pet./315/2023**

SUBODH SAHA  
S/O SRI SUDHIR CHANDRA SAHA  
R/O KALAHABHANGA, P.O BARPETA ROAD, DIST. BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR  
REP. BY THE PP, ASSAM

2:SRI JAMUNALAL KEOT  
S/O SRI MITHURAM KEOT  
R/O KALIBARI

P.O. AND P.S. TEZPUR  
DIST. SONITPUR  
ASSAM  
PIN-78400

**Advocate for the Petitioner : MR. S K SINGH**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE  
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

**ORDER**

**29.01.2024**

Heard Mr. A. Ganguli, learned counsel for the petitioner. Also heard Mr. D. Das, learned Addl. P.P, Assam and Mr. D.K. Medhi, learned counsel for the respondent No. 2 (informant/father of the victim girl).

This is an application under Section 482 of Cr.PC, 1973 for quashing of the FIR dated 23.06.2022 lodged with Tezpur Police Station being Police Station Case No. 725/2022 corresponding to G.R. Case No. 1265/22 registered under Section 354 (A) of IPC read with Section 8 of the POCSO Act.

The brief case of the prosecution is that the accused/petitioner has committed sexual harassment to the informant's daughter, who is aged 9 years and was studying at that time in Class-IV at Kolibari LP School, Tezpur. It is further alleged in the FIR that the accused/petitioner, who was the Assistant Teacher of that School at that time, has committed sexual harassment upon the said girl/child several times in front of the students in the classroom. Accordingly, a case was registered.

Mr. A. Ganguli, learned counsel for the petitioner submits that the informant has subsequently by swearing an affidavit dated 10.11.2022 has said that he had lodged the said FIR because of some misunderstanding and incitement of the fellow Teachers of Kolibari LP School and accordingly, he has decided to withdraw the case pending against the accused/petitioner.

Mr. D. Das, learned Addl. P.P submits on the basis of the FIR received that the statement of the victim girl has been recorded under Sections 161 & 164 of Cr.PC and in both the statements, she has clearly implicated the accused/petitioner and has stated that the accused/petitioner has sexually harassed her.

I have considered the submissions made at the bar and I have also perused the materials available on record.

The power and ambit of Section 482 is well settled. The test is to take the averments made in the FIR on the face value and see as whether an offence is made out or not.

A perusal of the FIR indicates that there are specific averments to the fact that the petitioner has sexually harassed the victim girl on number of occasions that too in front of the entire class of the School. As such, a criminal offence is made out on the face of the FIR.

This Court is astonished by the fact that the victim girl's father (informant) has deposed by way of an affidavit that he has filed the case upon misunderstanding and that he wishes to withdraw the case, whereas the victim girl has corroborated the contents of the FIR both in her 161 as well as in her 164 statement recorded. In fact, she has clearly stated in the aforesaid statement recorded that the petitioner has sexually harassed her. Therefore, it is absolutely clear that the petitioner has failed to make out any case warranting quashing of the instant FIR. Accordingly, the petition stands rejected.

With the above observations, the petition stands disposed of.

It is needless to say that the observations made herein are only in respect of considering the 482 application and shall not be binding in the pending trial.

**JUDGE**

**Comparing Assistant**