

GAHC010081622024



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

Case No. : Crl.Pet./495/2024

SIDDHESWAR ROY
S/O LATE MALESWAR ROY
VILL- BALAJAN TINIALI
P.O. HALTUGAON
P.S. AND DIST. KOKRAJHAR, ASSAM
PIN-783370

VERSUS

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

2:SURUT BASUMATARY
S/O LATE KAILASH BASUMATARY
VILL- BALAJAN TINIALI

P.O. HALTUGAON
P.S. AND DIST. KOKRAJHAR
BTC
ASSAM
PIN-78337

Advocate for the Petitioner : MR. A ROSHID,

Advocate for the Respondent : PP, ASSAM, MR. M U MAHMUD (R-2),MR S ISLAM (R-2),MRS.
M SAIKIA (R-2),MS. D BORA (R-2),MR S H MAHMUD (R-2)

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

26.09.2024

Heard Mr. A. Roshid, the learned counsel appearing for the petitioner. Also heard Mr. R.J. Baruah, the learned Addl. Public Prosecutor, Assam representing Respondent No.1. Mr. M.U. Mahmud, learned counsel appears for Respondent No.2.

2. This is an application under Section 482 of the CrPC praying for quashing the proceeding of C.R. Case No.9/2024 pending in the court of Sub-Divisional Judicial Magistrate (S), Kokrajhar.

3. The Respondent No.2 lodged an FIR before police. On conclusion of investigation, police filed a Final Report. Therefore, the Respondent No.2 filed a Protest Petition before the court of Magistrate.

4. The learned Magistrate examined four witnesses under Section 200 of the CrPC. Thereafter, the Magistrate held that there are *prima facie* materials under Sections 120B/420/406/427 of the Indian Penal Code against the present petitioner. Therefore, summons was issued to the present petitioner directing him to appear before the court.

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

6. Whenever police files a Final Report, the complainant can file a Protest Petition and the court of the Magistrate is required to examine witnesses under Section 200 of the CrPC. After that, if *prima facie* materials are found, then the court has the liberty to proceed against the accused.

7. This Court is of the opinion that there is nothing wrong in the impugned order dated 16.03.2024 passed in C.R. Case No.9/2024.

8. This is not a fit case for exercising power under Section 482 of the CrPC. Therefore, the present criminal petition is found to be devoid of merit and stands dismissed.

The petitioner Siddheswar Roy shall appear before the trial court within next 10(ten) days.

JUDGE

Comparing Assistant