

GAHC010087952024



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

Case No. : Crl.Pet./508/2024

MIRANDAD RAHMAN
S/O LATE MUKUT RAHMAN
R/O NA-ATI, NAZIRA, P.O. AN DP.S. NAZIRA, DIST. SIVASAGAR, ASSAM,
PIN- 785684

VERSUS

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

2:SMT. SMRITY REKHA SINHA
HEAD ASSISTANT
OFFICE OF THE DISTRICT AND SESSIONS JUDGE
SIVASAGAR
P.O.
P.S. AND DIST. SIVASAGAR
ASSAM

PIN-78564

Advocate for the Petitioner : MR. A K GUPTA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

03.05.2024

1. Heard Mr. A. K. Gupta, learned counsel for the petitioner. Also heard Mr. B. B. Gogoi, learned Additional Public Prosecutor for the State of Assam.
2. The present application is filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of the PRC Case No. 165/2023 arising out of the Sivasagar P.S. Case No. 1014/2021 under Section 420/468 of IPC.
3. The background fact of this case is that an FIR was lodged by the Head Assistant of District & Sessions Judge, Sivasagar inter alia alleging that two persons namely Mr. Sahil Ali and Mr. Afjul Hussain handed over two numbers of fake appointment letters to the informant. On the basis of such FIR, Sivasagar P.S. Case No. 1014/2021 under Section 420/468 of IPC dated 19.08.2021 was registered and subsequently, after completion of investigation, charge-sheet was filed sending the present petitioner as accused for trial and it was registered as PRC Case No. 165/2023.
4. In the meantime, another F.I.R. was lodged by the mother of one of the victim in whose name, the fake appointment letter was issued against the present petitioner alleging that by taking money, he has issued the aforesaid letter. Accordingly, another case being Simaluguri P.S. Case No. 107/2021 under Section 420/468 of IPC was registered. The aforesaid case was also ended in charge-sheet and the accused was sent for trial and it was registered as PRC Case No. 95/2022.
5. The grievance of the petitioner is that two proceedings cannot simultaneously run on the basis of same allegation.

6. It is clear from the aforesaid that one FIR was lodged by the victim under whose name, the fake appointment letter was issued and alleged forgery was committed. The other FIR was lodged by another victim who was allegedly cheated by using the forged/fake document/appointment letter. Therefore, in the given facts, there shall be no bar in registering two cases and prosecuting the accused for the aforesaid two cases. However, it is also well settled that in such a situation, both the cases should be tried analogously by the same Magistrate.
7. In view of the aforesaid, the present criminal petition is not entertained. The learned Chief Judicial Magistrate, Sivasagar shall do the needful so that, both the cases can be tried analogously by the same Magistrate.
8. Accordingly, the present criminal petition stands closed.
9. At this stage, Mr. Gupta, learned counsel for the petitioner submits that already a NBWA has already been issued against the petitioner in PRC Case No. 165/2023 arising out of the Sivasagar P.S. Case No. 1014/2021 under Section 420/468 of IPC.
10. The petitioner shall be at liberty to file an application before the learned Magistrate for recalling of such NBWA and if such application is filed, the learned Magistrate may consider the same in accordance with law.
11. A copy of the order be transmitted to the learned Chief Judicial Magistrate, Sivasagar.

JUDGE

Comparing Assistant