

GAHC010090472018



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

Case No. : WP(C)/3008/2018

RAJKUMAR PRITHVIRAJ NARAYAN DEV MECH
S/O- PRADIP NARAYAN DEV MECH, PRESENT ADDRESS- GWJWNPURI, P.O
AND P.S- KOKRAJHAR, DIST- KOKRAJHAR, BTAD, ASSAM, PERMANENT
R/O- VILL- GOGLAPARA (W/NO- 1), P.O AND P.S- BASUGAON, DIST-
CHIRANG, BTAD, ASSAM, PIN- 783372

VERSUS

THE STATE OF ASSAM AND 8 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
HOME AND POLITICAL DEPTT, DISPUR, GUWAHATI-6

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI-7

3:THE ADDL. DIRECTOR GENERAL OF POLICE(SEcurity)
ULUBARI
GHY- 7

4:THE ADDL. DIRECTOR GENERAL OF POLICE (SPECIAL BRANCH)
ASSAM POLICE SB OFFICE
KAHILIPARA
GUWAHATI- 19

5:THE INSPECTOR GENERAL OF POLICE
BTAD
KOKRAJHAR
ASSAM
PIN- 783370

6:THE DEPUTY COMMISSIONER
KOKRAJHAR
BTAD
ASSAM
PIN- 783370

7:THE SUPERINTENDENT OF POLICE
KOKRAJHAR
BTAD
ASSAM
PIN- 783370

8:THE OFFICER-IN-CHARGE
KOKRAJHAR SADAR POLICE STATION
KOKRAJHAR
BTAD
ASSAM
PIN- 783370

9:THE OFFICER-IN-CHARGE
DOTMA POLICE STATION
DIST- KOKRAJHAR
BTAD
ASSAM
PIN- 78334

Advocate for the Petitioner : MR. N H BARBHUIYA

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI
ORDER

14.05.2024

None appears for the petitioner, when the matter is called. Heard Mr K Gogoi, learned Additional Senior Government Advocate for the State respondents.

2. By filing the instant writ petition, the petitioner is seeking restoration of the all-round security protection as provided earlier to the petitioner.

3. Mr K Gogoi draws the attention of this Court to paragraph-7, 8 and 9 of the affidavit-in-opposition filed on behalf of respondent No. 4 on 11.10.2018. Paragraphs-7, 8 and 9 of the aforesaid affidavit is reproduced hereunder for a ready reference:-

“7. That with regard to the statements made in paragraph no.8 of the writ petition, the answering deponent begs to state that it is a fact that a threat assessment report in respect of the petitioner incorporating details and nature of threat was sought and received from the Superintendent of Police, Kokrajhar through the IGP (BTAD) Kokrajhar, wherein no specific threat was mentioned.

8. That with regard to the statements made in paragraph no. 9 of the writ petition, the answering deponent begs to state that it is a fact that in response to the petitioner's request for protection sent to the Assam Police Headquarters, which was forwarded to Superintendent of Police, Kokrajhar, a direction was issued to the O/Cs of the PSS/ICs of the Ops/PPs for jurisdictional protection. However, security being a dynamic feature is periodically reviewed and in the threat assessment report furnished by the Kokrajhar Police along with the views/comments of IGP (BTAD), Kokrajhar, which was discussed in the PRG meeting held on 03.05.2017 and later in the SSRC meeting dated 31.07.2017, PSO was not recommended for the petitioner.

9. That with regards to the statements made in paragraph no.10 of the writ petition, the answering deponent denies the same as it is not a fact and further begs to state that as per report received from Superintendent of Police, Kokrajhar, the petitioner was provided 1 (one) PSO w.e.f 18/08/2017 on reported threat from NDFB(S) through Mobile No. 9859360547 based on the FIR lodged by the petitioner. Accordingly, a case was registered vide No. 503/2017 U/S 120 (B)/121/121 (A)/507 IPC, R/W Sec. 10/13 UA(P) Act at Kokrajhar P.S. In the report received from Kokrajhar Police, it is stated that the investigation revealed that the petitioner had misrepresented facts to acquire a PSO and hence the PSO provided to the petitioner was withdrawn on 24/08/17. Further, in pursuance of the letter addressed to the DGP Assam dtd. 29/07/2017 by the Hon'ble Chief of the BTC received through the Govt. of Assam, Home

& Political Department, Dispur, a memo was sent to the Govt. of Assam vide no. SB VIII/77/B/Dep/kjr/2016-17/38, 297-98 dtd. 28/08/2017 stating the fact and circumstances regarding provision of PSO to the petitioner.”

4. Mr Gogoi further draws the attention of this Court to the paragraphs- 6, 7, 9 and 11 of the affidavit-in-opposition filed on behalf of respondent No. 7 on 14.08.2018.

Paragraphs-6, 7, 9 and 11 of the aforesaid affidavit is reproduced hereunder for a ready reference:-

“6. That with regard to the statements made in paragraph no.6 of the writ petition, the answering deponent begs to state that on receipt of representation dated 16/10/2016 from the petitioner Rajkumar Prithviraj Narayan Dev Mech,. The Inspector, Officer-In-Charge, Kokrajhar Police Station was directed to submit a present threat assessment report vide letter under memo no. Security Cell/KJR/20/2016/4001 dated 19/10/2016. Accordingly. S.I Narayan Boro of Kokrajhar P.S thoroughly enquired the matter and reported that no threat was found against the petitioner. In the said report, it was mentioned that the petitioner has also applied for his PSO before the Superintendent of Police, Chirang (Assam) in the year 2015 and 2016. Moreover, it has been found that one criminal case was pending at JJB, Bijni against this writ petitioner (Basugaon PS Case No. 161/2015/U/S 366A/307 IPC. R/W Sec. 9/10 Child Marriage Prohibition Act, 2006)

7. That with regard to the statements made in paragraph no.7 of the writ petition, the answering deponent begs to state that on 23/12/2016 one Sri Rajkumar Prithviraj Narayan Dev Mech, Editor, the Voice of Bodoland of Vill-Gujwnpuri, P.S & Dist- Kokrajhar, BTAD, Assam informed at Dotma P.S to the effect that on the same day at about 11.30 AM, while he was going towards Dotma from Kokrajhar by driving his own car, on the way of PWD Road, 4 (four) unknown miscreants restrained his car at Molandubi village under Dotma PS and physically assaulted/threatened him and fled away from the spot. In this regard, Dotma PS GDE No. 345 dated 23/12/2016 was made and enquired. During enquiry, SI Gagan Ch. Das, O/C Dotma P.S visited the place of occurrence and examined some local witnesses nearby the place of occurrence but no one has said anything and even expressed that the matter was not known to them. This refers Dotma PS GDE No. 347 dated 23/12/2016. Further, the enquiry officer had doubt that the information given by the complainant Sri Rajkumar Prithviraj Narayan Dev Mech is nothing concocted story for his personal benefit.

9. That with regards to the statements made in paragraph 10 of the writ petition, the answering deponent begs to state that regarding withdrawal of Personal Security Officer (PSO) of the writ petitioner, it is pertinent to mention here that though initially as per direction of ADGP (Security), Assam, Kahilipara, Guwahati, 01 (one) PSO Constable/834 Dulal Mandal of 7th APBN (OR) was provided to the petitioner on 19/08/2017, but consequently upon investigation of Kokrajhar PS Case No. 503/2017 U/S 120(B)/121/ 121(A)/507 IPC, R/W Sec. 10/13 UA(P) Act, where it came to know that the FIR lodged by the complainant (i.e the writ petitioner) regarding threat to his life was found baseless and totally a false and the whole thing was orchestrated by him to present his threat from extremist only with a view to securing a P.S.O, which was later on withdrawn vide this Office Order No. Security Cell/KJR/01/2017/3184-93 dtd. 24/08/2017.

11. That with regard to the statements made in paragraph 13 of the writ petition, the answering deponent begs to state that on 08/08/2017 at 3.43 P14, complainant, Shri Rajkumar Prithviraj Narayan Dev Mech, S/O- Shri Pradip Narayan Dev Mech of Gwjwnpuri, P.S & Dist- Kokrajhar, permanent address Basugaon Ward No. 1, PS Basugaon, Dist- Chirang lodged an ejahar at Kokrajhar PS to the effect that on 07/08/2017 at about 6.15 PM, he received phone calls from one mobile number i.e 9859360547 and an identified himself B.Mithinga of NDFB(S) outfit. Subsequently, at about 7.20 PM and 7.23 PM the complainant received some message from the same mobile number where he was threatened and warned to terminate all his cordial relationship with the ruling BPF Govt. of BTC and mostly with the Hon'ble Chief of BTC, Shri Hagrama Mohilary, or else be ready to face any consequences.

During the course of investigation, the I.O visited the place of occurrence and drew up a rough sketch map and recorded the statements of the complainant as well as other witness's U/S 161 CrPC.

The I/O also submitted a prayer to the Superintendent of Police, Kokrajhar for CDR analysis of the suspected mobile number i.e 9859360547 for one month and accordingly collected the same. The CDR analysis revealed that some mobile numbers had contacts with the suspected number 9859360547. Accordingly, the persons who contacted the suspected number were identified as:-

1. Smti Rina Brahma, W/O- Shri Mithun Brahma of village Shikarbeel, P.S- Dotma, Dist- Kokrajhar 2. Shri Mithun Brahma, S/O- Shri Malsing Brahma of village Shikarbeel, PS-Doma, Dist- Kokrajhar 3. Miss Junlai Brahma, D/O- Shri Dhaneswar Brahma of village Angthihara, PS-Dotma, Dist- Kokrajhar 4. Shri Dhaneswar Brahma, S/O Shri Monen Brahma of village Angthihara, PS-Dotma, Dist- Kokrajhar 5. Smti Fuleswari Brahma, W/O- Shri Dhaneswar Brahma of village

Angthihara, PS-DOTMA, Dist- Kokrajhar and their statements were recorded both U/S 161 Cr.PC and 164 Cr.PC at Kokrajhar Court.

On 21/08/2017, the statements of other available witnesses, namely 1. Shri JwngsarNarzary @ Lola @ Mithisar, S/O- Shri BistiNarzary of Aminpara, PO-Kakormari, PS-Sefanguri, Dist-Kokrajhar, 2. Shri Maya Kr. Wary @ Jati, S/O-Shri Rimat Wary of Singrihora, PO-Kashiyabari, PS-Gossaigaon, Dist-Kokrajhar 3. Shri Mijink Wary @ Motoma, S/O- Shri Riken Wary of Katribari, PS-Gossaigaon, Dist-Kokrajhar were also recorded U/S 161 & 164 Cr.PC before the Hon'ble COM, Kokrajhar Court. On 22/08/2017 statement of another witness, namely Debashish Saha @ Sibub, S/O-Shri Haridas Saha of J.D Road Ward No. 4 opposite UCO Bank, PS & DIST- Kokrajhar was also recorded U/S 161 & 164 Cr.PC before the Hon'ble CJM, Kokrajhar Court.

During investigation, it has come to light that the complainant, namely Shri Rajkumar Prithviraj Narayan Dev Mech himself collected the suspected SIM from Shri Mijink Wary and Shri Maya Kr. Wary @ Jati by paying Rs.500/- (five hundred) only.

It has also come to light that after procuring the SIM, the complainant also purchased a new mobile phone from the shop of DebashishSaha @ Sibub, S/O-Shri HaridasSaha of J.D Road. After that, the complainant along with JwngsarNarzary moved towards Garubhasa of Chirang district and also asked him to switch off his mobile phone. After reaching Garubhasa, the complainant typed some text in his new mobile phone using the suspected SIM card and thereafter, they returned back to Kokrajhar.

From the above facts and circumstances, it is crystal clear that the FIR lodged by the complainant, namely Shri Rajkumar Prithviraj Narayan Dev Mech is a totally false one and the whole thing was orchestrated by him to present his threat perception from extremist with a view to securing a PSO. Accordingly thereafter Kokrajhar P.S Non-FIR Case No. 02/2017 U/S-211 Cr.PC for Counter Prosecution was initiated against Shri Rajkumar Prithviraj Narayan Dev Mech. It is noteworthy that the real name of complainant is Prithiraj Narayan Dev as per his school documents.

On 01/09/2017 at 8.30 PM the complainant SI Narayan Boro of Kokrajhar PS lodged an ejahar to the effect that on the basis of statement recorded U/S 16 Cr,PC of the witnesses and on the basis of CDR analysis against mobile phone no. 9859360547, it was revealed that the writ petitioner of this writ petition, Shri Rajkumar Prithviraj Narayan Dev Mech as well as the complainant of Kokrajhar PS Case No.503/2017 U/S- 120(B)/121/121(A)/507 IPC, R/W Sec.10/13 UA(P) Act has voluntarily and knowingly committed crime of cheating by personating using mobile phone no 9859360547, mislead/ran the State and Police machinery orchestrating the whole thing to present his threat perception from extremist with a view to securing a PSO. In this

regard, a case has been registered against the petitioner being Kokrajhar PS Case No.539/2017 U/S- 419/420 IPC. The case has presently been stayed for further proceeding as per Order atd.07/03/2018 of the Hon'ble Gauhati High Court, Guwahati in connection with Kokrajhar PS Non-FIR Case No.02/2017 U/S-211 Cr. PC pending against the said petitioner."

5. A perusal of the aforesaid paragraphs/averments indicates that upon reviewing the threat assessment in respect of the petitioner, the IGP (BTAD), Kokrajhar, reported that there is no specific threat as regards the petitioner and accordingly, the security cover earlier provided to the petitioner was withdrawn.
6. This Court finds no illegality as regards the withdrawal of the security cover provided to the petitioner, in view of the threat assessment made by the respondent authorities.
7. As such, the writ petitioner has failed to make out any case, warranting any interference from this Court.
8. Accordingly, this writ petition is dismissed.

JUDGE

Comparing Assistant