

GAHC010100822023



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

Case No. : Crl.Pet./458/2023

GITAM KATAKI
S/O LATE PULIN KUMAR KATAKI
R/O HOUSE NO. 1, M.L. BARUAH ROAD, SILPUKHURI, GUWAHATI-3,
UNDER CHANDMARI POLICE STATION, IN THE DISTRICT OF KAMRUP,
ASSAM, PIN CODE- 781003

VERSUS

MRINMOY DEKA
SON OF SRI KARUNA KANTA DEKA,
R/O HOUSE NO. 15, JYOTIBAN NEAR SECTOR-1, P.O. AND P.S. NOONMATI,
GUWAHATI-20, IN THE DISTRICT OF KAMRUP (METRO), ASSAM

Advocate for the Petitioner : MR P KATAKI

Advocate for the Respondent : MR. P D NAIR

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 08.01.2024

Heard Ms. R. Begum, learned counsel for the petitioner and Mr. G. Alam, learned counsel for respondent.

2. In this petition under Section 482 of the Cr.P.C., the petitioner, namely,

Gitam Kataki is put to challenge the correctness of the orders dated 06.02.2023, and 20.02.2023, in C.R. Case No. 587C/2020 passed by the Court of learned Judicial Magistrate 1st Class, Kamrup(M) at Guwahati.

3. It is to be noted here that vide impugned orders dated 06.02.2023 and 20.02.2023, the learned Court below had imposed cost upon the petitioner @ Rs. 1000/- on each date, for failing to appear before the learned Court below despite repeated direction. However, the learned Court below has allowed the petitions filed by the petitioner seeking adjournment on the aforesaid dates.

4. Ms. Begum, learned counsel for the petitioner submits that on account of illness, the petitioner could not appear before the learned Court below on the aforesaid dates and to that effect, petition No. 6209/2023 was filed on 06.02.2023 and petition No. 6714/2023 was filed on 20.02.2023, and the learned Court below had allowed both the petitions, but imposed a cost of Rs. 1000/- on each date.

5. Ms. Begum, learned counsel for the petitioner further submits that the condition of the petitioner is serious and he is not in a position to appear before the learned Court below and therefore, the impugned orders suffer from illegality and contended to set aside the same and also contended to direct the learned Court below to dispose of the petitions filed by the petitioner for dispensing with his personal appearance before the learned Court below.

6. On the other hand, Mr. Alam, learned counsel for the respondent submits that there is no medical document to support the contention of the petitioner that he is suffering from any ailment and that he is not in a position to appear before the learned Court below. Mr. Alam further submits that on account of non-appearance of the petitioner before the learned Court below, the case filed by him under Section 138 of the N.I. Act is pending since long and therefore,

Mr. Alam submits that there is no merit in the petition that the learned Court below had rightly passed the impugned orders dated 06.02.2023, and 20.02.2023, imposing cost upon the petitioner for failing to remain present before the Court on the date fixed.

7. Having heard the submission of learned Advocates of both sides, I have gone through the petition and the documents placed on record. It appears that vide impugned orders dated 06.02.2023 and 20.02.2023, the learned Court below had directed the petitioner to pay a cost of Rs. 1000/- for failing to remain present in the Court despite specific direction to that effect.

8. In the given facts and circumstances of the case, the impugned orders, so passed by the learned Court below, to the considered opinion of this Court, suffer from no infirmity or illegality requiring any interference of this Court. However, considering the submission of learned counsel for the petitioner, that the petitioner is suffering from ailments and some medical documents are also placed on record in support of such condition, this Court is inclined to interfere with the quantum of cost and to reduce the same from Rs. 1000/- to Rs. 500/- on each date. It is also provided that the learned Court below shall dispose of the petition, if any, filed under Section 205 Cr.P.C. by the petitioner.

9. In terms of the above, this petition stands disposed of.

10. Interim order, if any, passed earlier stands vacated.

JUDGE

Comparing Assistant