

GAHC010105512023



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

Case No. : Crl.Pet./467/2023

SMT BINAMRATA DEKA AND 3 ORS
D/O SRI MANORANJAN DEKA, R/O VILL-MAZDIA, P.S.-NALBARI, P.O.-
CHOWKBAZAR, DIST-NALBARI, ASSAM-781335

2: MANORANJAN DEKA
S/O LATE RAMESH CH. DEKA
R/O VILL-MAZDIA
P.S.-NALBARI
P.O.-CHOWKBAZAR
DIST-NALBARI
ASSAM-781335

3: HARIHAR DEKA
S/O LATE RAMESH CH. DEKA
R/O VILL-MAZDIA
P.S.-NALBARI
P.O.-CHOWKBAZAR
DIST-NALBARI
ASSAM-781335

4: MANJIT DEKA
S/O MANORANJAN DEKA
R/O VILL-MAZDIA
P.S.-NALBARI
P.O.-CHOWKBAZAR
DIST-NALBARI
ASSAM-78133

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:DHARMESWAR KONWAR

S/O SRI BOLIN KONWAR
R/O BAPUBHETI GAON
P.O.-PITHAKHOWA
P.S.-TEZPUR
DIST- SONITPUR
ASSAM-78400

Advocate for the Petitioner : MR. B D KONWAR SR. ADV.

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

29.07.2024

Heard Mr. P. Doley, learned counsel for the petitioners. Also heard Mr. A. Bhattacharya, learned counsel appearing for the respondent No.2 and Mr. B.B. Gogoi, learned Additional Public Prosecutor, Assam, appearing for the State respondent No.1.

2. The learned counsel for the petitioner submits that the petitioner No.1 got married with one Munindra Konwar, S/o Bolin Konwar, resident of village Bapu Bhetigaon, P.S.-Thelamara, Dist.-Sonitpur, Assam and who is the elder brother of the respondent No.2. The said Munindra Konwar projected himself to be a Sub-Inspector of Police employed under the Special Branch of the Assam Police. Thereafter, the petitioner No.1 and the said Munindra Konwar got married. Pursuant thereto, on the basis of reliable information as well as an information received under RTI, the petitioners came to be informed from the Office of the Special Branch Headquarters of the Assam Police, Kahilipara that there is no record available in the SB Headquarters regarding employment of Shri Munindra Konwar, S/o Bolin Konwar of Bapu Bhetigaon, Sonitpur, Assam-784153. Pursuant thereto, the petitioner No.2 filed an FIR in this connection which was stated to be received by the Officer-in-Charge of Police, Nalbari on 18.12.2022. A divorce petition being Matrimonial Suit (D) No.1/2023 has also been filed, which was disposed of by the learned Principal Judge, Family Court, Nalbari, by dissolving the marriage between the parties. The petitioners are aggrieved by the criminal petition filed by

the respondent No.2, whereby it is alleged that they had forcefully and wrongfully retained a Hyundai Creta vehicle belonging to the respondent No.2, bearing Registration No.AS-12AF-1602, Engine No.G4FNLV321726, Chassis No.MALPC812LNM359565, which is registered with the Sonitpur DTO. It is submitted that the respondent No.2 who is the complainant has alleged that the said vehicle was forcefully detained by the petitioner because of which the same is lying at their residence and he is unable to use the vehicle belonging to him. Mr. Doley, learned counsel submits that the entire allegations are at the behest of the said Munindra Konwar, the person who has projected himself as a Police Officer, because of the litigations pending between them. The learned counsel for the petitioners submits that he has instructions from the petitioners to state before this Court that the respondent No.2 is at liberty to come and take away the vehicle upon such orders being issued by the Court.

3. At present, it is submitted that the aforementioned vehicle is lying in the Nalbari Police Station. The petitioners have no objection if the respondent No.2 takes zimma of the said vehicle lying in the Nalbari Police Station. The respondent No.2 is hereby directed to take steps and apply for zimma of the same.

4. It is also submitted by the learned counsel for the respondent No.2 that the Criminal Case No.51/2023 will be withdrawn by the respondent No.2 under the condition that the vehicle is in proper running condition. The respondent No.2 is hereby directed to take steps to obtain zimma of the aforementioned vehicle.

5. In terms of the above observation, this criminal petition stands disposed of.

Sd/- *Susmita Phukan Khaund*
JUDGE

Comparing Assistant