

GAHC010115152024



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

Case No. : WP(C)/3001/2024

ATIFUR RAHMAN
S/O- LATE AFAJ ALI, R/O- H.NO. 16, NORTH JALUKBARI, KATIA DALONG,
P.S. JALUKBARI, GUWAHATI-14, DIST.- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY, TO THE GOVT.
OF ASSAM, HOME DEPARTMENT, DISPUR, GUWAHATI-06

2:THE DEPUTY COMMISSIONER OF POLICE
WEST POLICE DISTRICT GUWAHATI
KAMRUP (M)
ASSAM

3:THE SUPERINTENDENT OF POLICE
KAMRUP (M)
GUWAHATI

4:THE OFFICER-IN-CHARGE OF JALUKBARI POLICE STATION
GUWAHATI

5:IMDAD ALI (SARU BABU)
S/O- LATE UNISH ALI
R/O- JALUKBARI
GUWAHATI-14
DIST.- KAMRUP (M)
ASSA

Advocate for the Petitioner : MR A ALI, MS. M KHATUN

Advocate for the Respondent : GA, ASSAM,

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

ORDER

30.08.2024

1. Heard Mr. A. Ali, learned counsel for the petitioner. Also heard Mr. K Gogoi, learned State counsel appearing for respondent Nos.1 to 4.
2. The present writ petition is filed with a grievance that even after lodging of a complaint before the police regarding an assault, the Jalukbari Police Station has not registered any case. Accordingly, this court sought for an instruction as regards status of any investigation that may have been carried out pursuant to the FIR dated 13.03.2024, which is stated to have been lodged by the writ petitioner before the Jalukbari Police Station.
3. In response to the same, Mr. Gogoi, learned State counsel has produced a report.
4. The report suggests that though a cognizable offence has been made out, no FIR has been registered, rather the Officer in charge of Jalukbari PS, on his own, without registering a case initiated an enquiry and thereafter, he had concluded that no case is made out.
5. In the considered opinion of this court such course of action is not permissible either under BNSS or under Cr.P.C, inasmuch as, when a cognizable offence is made out, it is a bounden duty of the officer in charge of the police station to register a case and proceed with the investigation. Otherwise, such course of action shall give an unfettered power to the officer in charge to enquire into an alleged offence without registering an FIR, even if a cognizable offence is made

out and not to investigate .It is another matter ,after investigation it may file Final report depending upon the material collected during investigation .

6. However, pursuant to this Court's order dated 21.08.2024, on instruction Mr. Gogoi, learned State Counsel submits that in the meantime, an FIR has been lodged.
7. In the aforesaid backdrop, though this matter has become infructuous, it is provided that such police officer should be counselled by the higher authorities as regards procedure for registering an FIR and doing an investigation inasmuch in the case in hand, the officer was posted in a very important police station of Guwahati i.e. Jalukbari. A copy of this order be furnished to the DGP, Assam.
8. With the aforesaid observation, this writ petition stands disposed of.
9. The petitioner shall be at liberty to take legal recourse against alleged closure of his shop.

JUDGE

Comparing Assistant