

GAHC010123142024



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

Case No. : WP(C)/3177/2024

JOYANTA HOJAI
W/O- LATE SANTOSH HOJAI, R/O- VILL.- GAMADI HAWAR, P.O. AND P.S.
HARANGAJAO, DIST. DIMA HASAO, ASSAM, PIN- 788818.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT OF ASSAM,
DISPUR, GUWAHATI-6.

2:THE PRINCIPAL SECRETARY
HOME DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-6.

3:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI-781007.

4:THE INSPECTOR GENERAL OF POLICE (ADMINISTRATION)

ASSAM POLICE HEADQUARTER
ULUBARI
GUWAHATI-781007.

5:THE SUPERINTENDENT OF POLICE
CID
ASSAM
ULUBARI
GUWAHATI-781007

For the Petitioner(s) : Mr. B. D. Das, Senior Advocate
Mr. D. Thaosen, Advocate

For the Respondent(s) : Mr. H. Sarma, Government Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 03-10-2024

Heard Mr. B.D. Das, the learned senior counsel assisted by Mr. D. Thaosen, the learned counsel appearing on behalf of the petitioner and Mr. H. Sarma, the learned Addl. Senior Government Advocate appearing on behalf of the respondents.

2. The instant writ petition was filed seeking appropriate directions from this Court for appointment of Special Public Prosecutor under Section 24(8) of the Code of Criminal Procedure, 1973 for conducting the prosecution of trial in respect to Sessions Case No. 19/2023 and for further direction for prosecution sanction against the Police Officials under Section 197 of Code of Criminal Procedure, 1973.

3. It is seen from the records that an affidavit was filed by the Superintendent of Police (CID) on 27.09.2024 wherein it had been categorically mentioned at paragraph No. 9 that it was a clear case of cold blooded murder and as such it is not an action which was taken while discharging Government duty. It was further mentioned that as such the prosecution sanction under Section 197 of Cr.P.C.,1973 is not

required.

4. In addition to that it was mentioned at paragraph No. 10 of the affidavit that a Special Public Prosecutor may be appointed to conduct the trial of Harangajao P.S. Case No. 03/2020.

5. Taking into account the said stand by the Respondent Authorities in the affidavit, the learned Senior Counsel appearing on behalf of the petitioner submits that the instant writ petition can be closed with a direction that a Special Public Prosecutor be appointed at the earliest, so that the Session Case No. 19/2023 which is an ongoing proceeding can be taken to its logical conclusion with the help of the Special Public Prosecutor.

6. Taking into account the said submission which is not being opposed to by Mr. H. Sarma, the learned Addl. Senior Government Advocate, this Court disposes of the instant writ petition thereby directing the Respondent Authorities to take immediate steps for appointment of a Special Public Prosecutor for conducting the trial in connection with Session Case No. 19/2023 at the earliest and preferably within one month from the date of the instant order.

JUDGE

Comparing Assistant