

GAHC010123552024



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

Case No. : Crl.Pet./740/2024

HITESH KAKATI
S/O SRI DEBI RANI KAKATI, R/O VILL- DORAKAHARA, P.S.-CHANGSARI,
DIST- KAMRUP (M), ASSAM, PIN-781101

VERSUS

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

2:SMTI NAMITA DEKA
W/O SRI PRAFULLA DEKA
R/O VILL- PANITEMA
P.S.-KAMALPUR
DIST- KAMRUP (R)
ASSAM
PIN-78110

Advocate for the Petitioner : MRS M BARMAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 27.06.2024

- 1.** Heard Ms. M. Barman, learned counsel for the petitioner. Also heard Ms. S. Jahan, learned Additional Public Prosecutor for the State Respondent.

2. This application under Section 482 of the Code of Criminal Procedure, 1973 has been filed by the Petitioner Hitesh Kakati, paying for quashing of the FIR on the basis of his Changsari P. S. Case No. 137/2013 was registered and ultimately Sessions Case was registered, bearing Sessions Case No.22/2019 under Sections 376/379/506 of the Indian Penal Code.

3. The main contention of the petitioner for seeking quashing of the FIR is that the impugned FIR was lodged after a delay of 5 months of the date of alleged offence. She has also submitted that there during the trial, some of the prosecution witnesses have made contradictory statements which belies the allegations levelled in the FIR.

4. Learned Additional Public Prosecutor submits that as the prayer for quashing has been filed at a too belated stage mainly on the ground of delayed left lodging of the FIR, the instant criminal petition is not maintainable.

5. I have considered the submissions made by the learned counsel for the petitioner as well as the learned Additional Public Prosecutor.

6. It is a settled law that powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 have to be exercised sparingly in rare cases where the facts of the case justify such invocation.

7. However, in the instant case, it appears that the petitioner has approached this Court belated on flimsy grounds, seeking invocation of the powers under 482 of the Code of Criminal Procedure, 1973.

8. The petitioner is also facing the trial before the Sessions Court and already 5 witnesses have been examined. Moreover, the FIR which the

petitioner seeks to quash was lodged more than 11 years ago on 07.05.2013, this Court, therefore, sees no justification in entertaining the petition under Section 482 of the Code of Criminal Procedure, 1973 filed by the present petitioner and invoking its powers under said provision.

9. This Criminal Petition is accordingly, dismissed

.

JUDGE

Comparing Assistant