

GAHC010126002023



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

Case No. : Crl.Pet./558/2023

NEPUT RAJIYUNG @ ACTION DIMASA @ MIPUT RAJIYUNG
S/O DEPON RAJITUNG
R/O UMRANSO, UNDER UMRANGSO POLICE STATION,
DIST. DIMA HASAO, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:BIKASH THOUSEN
S/O UPENDRA JHON
VILL- DONGJEN RAJI
P.S. UMANGRANSO
DIST. DIMA HASAO
ASSAM

3:MS. MAHARUN NESHA
W/O LATE HABIBUR RAHMAN
R/O WARD NO.2
NEAR DON BOSCO SCHOOL
P.O. AND P.S.-MANGALDOI
DIST.- DARRANG
ASSAM
PIN-784125

Advocate for the Petitioner : MR. A M BORA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 06.05.2024

Heard Mr. D. K. Baidya, learned counsel appearing on behalf of Mr. A. M. Bora, learned Senior Counsel for the petitioner. Also heard Mr. K. K. Parasar, learned Additional Public Prosecutor for the State respondent No. 1 and Mr. U. K. Goswami, learned counsel appearing on behalf of the respondent No. 2.

This is an application under Section 482 *read with* Section 401 of the Code of Criminal Procedure, 1973 for setting aside and quashing the order dated 26.04.2023, passed by the learned Sessions Judge, Dima Hasao, Assam in Sessions Case No. 18/2008 allowing the prayer for recalling the P.W.-4.

It is submitted by Mr. D. K. Baidya, learned counsel for the petitioner, that the P.W.-4, i.e. the respondent No. 2 herein, filed a petition before the Court of learned District & Sessions Judge, Dima Hasao, Assam, being Petition No. 620/2022, on 04.06.2022 for allowing himself to be re-examined before the learned Court below. Accordingly, considering his prayer, the learned District & Sessions Judge, Dima Hasao, Assam had allowed the said prayer vide order dated 26.04.2023 for recalling the P.W.-4. On being aggrieved with the order dated 26.04.2023, the present petition has been filed by the petitioner praying for setting aside the order of recalling the P.W.-4, passed by the learned District & Sessions Judge, Dima Hasao, Assam. But today, by filing an affidavit, it is stated by the P.W.-4, i.e. respondent No. 2 herein, that he is no longer willing to press or pursue the Petition No. 620/2022, dated 04.06.2022, filed by him

before the learned Court below in Sessions Case No. 18/2008 and also does not intend to be recalled as a witness in Sessions Case No. 18/2008 as he has no further additional facts to disclose before the learned Court below.

In this regard, Mr. K. K. Parasar, learned Additional Public Prosecutor as well as Mr. U. K. Goswami, learned counsel appearing on behalf of the respondent No. 2, has submitted that considering the affidavit filed by the respondent No. 2 (P.W.-4), the matter may be closed being not pressed.

After hearing the submissions made by the learned counsels for both sides and also considering the fact that the informant/respondent No. 2/P.W.-4, who prayed for recalling his witness, had already filed his affidavit stating that he is no longer willing to press and pursue the Petition No. 620/2022, which was filed before the Court of learned District & Sessions Judge, Dima Hasao, Assam on 04.06.2022, I hereby close the present petition and the order dated 26.04.2023 in respect of allowing the prayer for recalling P.W.-4 is hereby set aside and quashed. However, the learned Court below may examine the other witnesses and proceed with the trial.

In terms of above, this criminal petition stands disposed of.

JUDGE

Comparing Assistant