

GAHC010137552023



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

Case No. : W.P.(Crl.)/25/2023

TOKO RUNEL
S/O- LATE TOKO PEKHI
R/O- NIRJULI BAGE TINIALI
NEAR VKV SCHOOL
NIRJULI
DISTRICT- PAPUM PARE
ARUNACHAL PRADESH- 791109.

VERSUS

THE CHIEF SECRETARY TO THE GOVT OF ASSAM AND 7 ORS
HOME AND POLITICAL DEPARTMENT
ASSAM SECRETARIAT
DISPUR- 781006
GUWAHATI.

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
THE LEGAL REMEMBRANCER DEPARTMENT
ASSAM SECRETARIAT
DISPUR- 781006
GUWAHATI.

3:THE SUPERINTENDENT OF POLICE
LAKHIMPUR
NORTH LAKHIMPUR
ASSAM- 787001.

4:THE SUPERINTENDENT OF POLICE
PAPUM PARE
ARUNACHAL PRADESH- 791113.

5:THE SUPERINTENDENT OF POLICE
CAPITAL COMPLEX
ITANAGAR- 791110

ARUNACHAL PRADESH.

6:THE REGISTRAR OF BIRTH AND DEATH
ITANAGAR MUNICIPAL CORPORATION

NAHARLAGUN- 79111

ARUNACHAL PRADESH.

7:DIRECTOR OF ECONOMICS AND STATISTICS
YUPIA

PAPUM PARE- 791110

ARUNACHAL PRADESH.

8:KIPA ACHOK
FATHER OF CICL Y
R/O- VILLAGE- NIRJULI E SECTOR
P.S.- NIRJULI
DIST.- PAPUM PARE
ARUNACHAL PRADESH- 791109.

Advocate for : MS. S G BARUAH

Advocate for : GA

ASSAM appearing for THE CHIEF SECRETARY TO THE GOVT OF ASSAM AND
7 ORS

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 28-06-2024

1. Heard Ms. S.G. Baruah learned counsel for the petitioner.
Also heard Mr. D Nath learned senior Govt. advocate appearing for
respondent Nos.1 to 3, Mr. NNB Choudhury learned additional
Advocate General, Arunachal Pradesh, Mr. A Chandran learned counsel
appearing for respondent Nos.4 to 7 and Mr. D.K. Medhi learned
counsel for respondent No.8.
2. This writ petition arises out of Sessions case
No.50(NL)/2023, pending in the court of learned Addl. District and

Sessions Judge (FTC), Lakhimpur, North Lakhimpur.

3. The basic challenge in this writ petition is made against the order dated 30.12.2021, passed by the Additional Chief Judicial Magistrate, Lakhimpur, North Lakhimpur in GR Case No.4465/2021 and also against the order dated 11.05.2023 passed by the Principle Magistrate, Juvenile Justice Board, Lakhimpur, North Lakhimpur, whereby the learned Court dismissed the petition being the petition No.301/2022 filed by the respondent No.8. The challenge is also made to the manner and procedure adopted while determining the juvenility of the alleged Child in Conflict with Law (hereinafter referred to as CICL), allegedly involved in commission of crime in connection with Laluk PS Case No.400/2021 under section 302/34 IPC. The CICL is the son of respondent No.8 in this writ petition.

4. The facts of the present case is similar to the facts of the case of WP(CrI) No.24/2023 inasmuch as, the son of the respondent No.8 in WP(CrI) No.25/2023 is also an accused in Laluk PS Case No.400/2021 under section 302/34 IPC and like the son of the respondent No.8 in WP(CrI) 24/2023, the son of the respondent No.8 herein also claims to be a juvenile. The petitioner in WP(CrI) 24/2023 & WP(CrI) 25/2023 is the same person and his grievance is also the same i.e., the challenge to the manner and method of determination of juvenility of the sons of respondent No.8 in both the cases.

5. In the aforesaid backdrop the learned counsel for the parties submits that the determination made in WP(CrI) 24/2023 shall also cover the present case. Accordingly, it is submitted that the present petition may be disposed of in terms of the aforesaid WP(CrI)

24/2023, by setting aside the impugned order(s) 30.12.2021 & 11.05.2023, with a further direction to have a fresh enquiry as regards the juvenility of the son of the respondent No.8.

6. Considered the submissions advanced by the learned counsel for the parties. Also perused the material available on record. There is no doubt that the sons of both the respondent No.8 are accused in Laluk PS Case No.400/2021 under section 302/34 IPC. The fact also remains that both the accused claims to be juvenile and they have been held to be juvenile in the same proceeding.

7. It is also an admitted position that the present petitioner is an informant of the said Laluk police station case, in which two minor sons of the petitioner was allegedly killed by the two alleged juvenile and another accused. It is also undisputed that the determination made by the JJB and the learned Addl. CJM are also on same ground and the orders are similar in nature, though the dates of the orders are different. Therefore, in principle the determination made as regards the illegality in the procedure adopted by the JJB as well as the learned Addl. CJM are same. Therefore, the decision rendered in WP(CrI) 24/2023 shall also cover the present case.

8. Accordingly, for the reasons recorded in WP(CrI) 24/2023, the impugned orders dated 30.12.2021 & 11.05.2023 are set aside and the Juvenile Justice Board, North Lakhimpur shall proceed afresh under section 14 of the Act to determine the juvenility of the two accused alleged to be child in conflict with law and thereafter pass order under section 17 and 18 of the act as the case may be. While doing so, if necessity arises the Board shall also do the needful in

terms of section 15 of the Act. The entire proceeding be completed within a period of 3 months from the date of receipt of a certified copy of this judgment and order.

9. It is further provided that till completion of the aforesaid exercise, the proceeding of Sessions Case No.50(NL)/2023 pending in the court of the learned Additional District and Sessions Judge (FTC), Lakhimpur, North Lakhimpur shall remain suspended and the trial shall proceed on the basis of the determination of the Juvenile Justice Board.

10. In terms of the determination made hereinabove, the writ petition stands allowed.

JUDGE

Comparing Assistant