

GAHC010151162024



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

Case No. : Crl.Rev.P./287/2024

PRASANTA GARAI
S/O SRI KHUDIRAM GARAI
VILL- KALISEN, P.O. MURAKATA
P.S. ONDA, DIST. BANKURA, WEST BENGAL,
PIN- 722144.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : P J DAS, MR. S P MUKHARJEE

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

06.08.2024

1. Heard learned counsel Mr. S. P. Mukharjee for the petitioner Prasanta Garai.
2. This application has been filed by the petitioner under Sections 397/401/402

of the Cr.PC and 438/442/528 of the BNSS, 2023 with prayer for quashing the entire proceeding of GR Case No. 2448/2011 arising out of Dispur P.S. Case No. 5461/2011 registered under Section 419 of the IPC.

3. Heard Mr. B. B. Gogoi, learned Additional Public Prosecutor, Assam for Respondent State.

4. Learned Additional Public Prosecutor has accepted notice on behalf of both the respondents and thus no formal notice is required to be issued. However, sufficient copies of the petition to be furnished during the course of the day.

5. It is submitted on behalf of the petitioner that the case number itself reflects that this case is pending since 2011 but the learned Trial Court has procrastinated the case. A prayer was made before the learned Trial Court and it is reflected in the order dated 02.03.2023 in GR Case No. 2448/2011, that the learned counsel for the petitioner/accused Prasanta Garai has prayed for splitting up the case. It is contended that no order was passed despite the fact that the learned Magistrate has observed that the prayer was made before the Court to split up the case. It is averred that the learned Magistrate has ignored the fact that the petitioner who is posted at Jammu and Kashmir as Constable was regularly appearing and he is suffering only because the co-accused has failed to appear before the learned Trial Court.

6. NBWA and proclamation has already been issued to the co-accused but the co-accused has failed to appear before the Trial Court. The Orders dated 24.03.2022 and 21.06.2023 clearly reflects the apathetic manner in which the proceeding of GR Case No. 2448/2011 is being conducted.

7. I have also heard the learned Additional Public Prosecutor.

8. I have considered the submissions at the Bar with circumspection.

9. Learned counsel for the petitioner has prayed for quashing the proceeding as a case under Section 419 of the IPC is being procrastinated since 2011 up to 2024 solely because the co-accused has not appeared before the Court. The learned Court has also ignored that the proceeding is being procrastinating. The accused/petitioner is being highly prejudiced.

10. After considering the submissions on behalf of the petitioner, this Court deems it fit to direct the learned Trial Court to proceed against the petitioner who is appearing in connection with the aforementioned case.

11. The Court may expedite the proceeding by splitting up the proceeding of GR Case No 2448/2011 against the other accused and proceed against the present petitioner for speedy disposal of the case.

12. In terms of the above observation, this petition stands disposed of.

JUDGE

Comparing Assistant