

GAHC010154912024



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

Case No. : WP(C)/3952/2024

AZADUL ISLAM
S/O- AYUB ALI, RESIDENT OF HATIPOTA PART-II, P.O. HATIPOTA, P.S.
CHAPAR, DIST. DHUBRI, ASSAM, PIN- 783348

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, HOME DEPARTMENT, DISPUR, GUWAHATI,
PIN- 781006

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
P.O. ULUBARI
GUWAHATI
ASSAM
PIN- 781007

3:THE INSPECTOR GENERAL OF POLICE
ASSAM
P.O. ULUBARI
GUWAHATI
ASSAM
PIN- 781007

4:THE DEPUTY COMMISSIONER
DHUBRI
P.O. AND P.S. DHUBRI
DIST.- DHUBRI
ASSAM
PIN- 783301

5:THE SUPERINTENDENT OF POLICE
DHUBRI

P.O. AND P.S. DHUBRI
DIST.- DHUBRI
ASSAM
PIN- 783301

6:THE OFFICER-IN-CHARGE
CHAPAR POLICE STATION
P.O. AND P.S. CHAPAR
DIST.- DHUBRI
ASSAM
PIN- 78334

Advocate for the Petitioner(s) : Mr. A.A.R Karim

Advocate for the respondent(s): Mr. S. Sarma

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 09.08.2024

Heard Mr. A. A. R. Karim, the learned counsel appearing on behalf the petitioner. Mr. S. Sarma, the learned counsel appears on behalf of all the respondents.

2. The case of the petitioner herein is that the petitioner had lodged an FIR which was registered as Chapar P.S. Case No. 107/2024 dated 08.07.2024 under Sections 365/342/376/34 of the Indian Penal Code read with Sections 4/17 of the POCSO Act, corresponding to G.R. Case No. 309/2024 at Chapar in the district of Dhubri. It is the case of the petitioner that the respondent authorities have not taken any steps to properly investigate the said crime properly and have also not taken due action against the accused. Under such circumstances the petitioner had also submitted a representation to the respondent No. 2 for taking due action which however has not been taken. In that view of the matter, the petitioner had approached this Court by way of filing the instant writ petition.

3. The law is well settled by the Supreme Court in the case of ***Sakiri Vasu vs State of U.P. and others reported in (2008) 2 SCC 409***, which is also followed by various other judgements of the Supreme Court that a writ petition ought not to be entertained in view of the expressed provision under Section 156(3) of the Code of Criminal Procedure, 1973 being available. Under such

circumstances, this Court would not like to entertain the instant writ petition.

4. Be that as it may, the petitioner herein would be at liberty to approach the jurisdictional Magistrate under Section 156(3) of the Code of Criminal Procedure, 1973 if the petitioner is aggrieved by the investigation so carried out by the concerned Investigating Officer of Chapar PS Case No.107/2024.

5. It is however observed that in such circumstances if the petitioner files such application in accordance with law, the concerned Magistrate shall duly consider the same as per the extant law.

6. With the above observation and direction the instant writ petition stands disposed of.

JUDGE

Comparing Assistant