

GAHC010158722020



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

Case No. : I.A.(Crl.)/524/2020
in
Criminal Petition No.1005 of 2015

GHANASHYAM KALITA
S/O LT. DASARATH KALITA, R/O. VILL- BHUTEPOWA BARI, P.O. CHERRA
BAZAAR, P.S. BARPETA ROAD, DIST. BARPETA, ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PUBLIC PROSECUTOR, ASSAM.

2:GULZAR HUSSAI

Advocate for the Petitioner : MR D KALITA

Advocate for the Respondent : PP, ASSAM

B E F O R E
HON'BLE MR. JUSTICE HITESH KUMAR SARMA

16-11-2020

This interlocutory application has been filed praying for stay order in respect of the proceedings of Barpeta Road P.S. Case No.332/2015 under Sections 120B/167/417/466/468/34 of Indian Penal Code, read with Sections 7/13(2) of the Prevention of Corruption Act.

Perused the application.

It appears from the application as well as from the connected Criminal Petition No.1005 of 2015 that vide order dated 22.12.2015, further proceedings of the aforesaid case was stayed and the stay continued till 14.12.2017.

On 14.12.2017, this Court passed an order vacating the interim order in view of the absence of the petitioner on repeated counts. The interim order was vacated vide order dated 14.12.2017 observing that the case was pending with the interim order operating for long.

Mr. B.D. Das, learned senior counsel for the petitioner has submitted that the petitioner is at fault in not appearing in the Court regularly, in spite of the interim order aforesaid. However, he has further submitted that he is available to participate in the hearing of the connected criminal petition at the earliest and positively on the date fixed by this Court. The petitioner has also stated in paragraph-5 of the application the reason for which he could not appear and it has come out from his statement made in paragraph-5 that he could not contact his earlier engaged counsel. Further, he has submitted that he was under the impression that his engaged counsel has been regularly appearing in the matter. However, when he could not contact his engaged counsel, he engaged another advocate from whom he could come to know about the order dated 14.12.2017, referred to above.

I have also heard Mr. N.K. Kalita, learned Additional Public Prosecutor, Assam.

Mr. Kalita has submitted that considering the conduct of the petitioner, prayer should not be allowed.

Whatever it may be, on consideration of the submission made by the learned senior counsel for the petitioner that the petitioner is ready and willing to see that the case is disposed of at the earliest and that he will not seek any adjournment, this Court proposes to fix the matter for final hearing on 2.12.2020 and till then further proceedings in the aforesaid Barpeta Road P.S. Case No.332/2015 is stayed subject to payment of cost of Rs.3,000/- by the petitioner with the Registry of this Court. The deposit of the aforesaid cost of Rs.3,000/- is condition precedent for hearing of the Criminal Appeal No.1005/2015 on the date fixed.

Registry to list the connected Criminal Appeal No.1005/2015 on 2.12.2020, without fail, for hearing.

The interlocutory application stands disposed of.

JUDGE