

GAHC010172582024



2024:GAU-AS:10812

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

Case No. : WP(C)/4347/2024

GAUTAM SHUKLA AND 4 ORS
S/O- LATE SATYA NARAYAN SHUKLA

2: DURGA JHA SHUKLA
W/O- GAUTAM SHUKLA

3: BISHNU DEV SHUKLA
S/O- LATE SATYA NARAYAN SHUKLA

4: BISHNU DEV SHUKLA
S/O- LATE SATYA NARAYAN SHUKLA

5: BHASKAR SHUKLA
S/O-BISHNU DEV SHUKLA

ALL ARE R/O- KHERONI PURANA BASTI

P.O AND P.S- KHERONI

DIST- WEST KARBI ANGLONG
ASSAM

PIN-78244

VERSUS

THE STATE OF ASSAM AND 2 ORS (F)
REP. BY THE CHIEF SECRETARY , DISPUR , GUWAHATI-06

2:THE LEGAL REMEMBRANCE CUM CABINET SECRETARY
JUDICIAL DEPARTMENT
JUDICIAL DEPARTMENT
GOVT. OF ASSAM
DISPUR

GUWAHATI-06

3:THE ADDL. PUBLIC PROSECUTOR
IN THE COURT OF CJM
WEST KARBI ANGLONG
AT HAMREN

P.O AND P.S- HAMREN
PIN-78248

Advocate for the Petitioner : MR. S CHAUHAN, MR. P MAZUMDER, MS S K CHOUHAN

Advocate for the Respondent : GA, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

06.11.2024

Heard Mr. S. Chauhan, learned counsel for the petitioners and Mr. S. Baruah, learned Junior Government Advocate, Assam for all the respondents.

2. The petitioners, 5 [five] in nos., are facing trial in PRC Case no. 431/2019, presently pending before the Court of learned Chief Judicial Magistrate, Hamren. The case, PRC Case no. 431/2019 arose out of Kheroni Police Station Case no. 56 of 2019 registered under Section 143 and Section 325 of the Indian Penal Code [IPC]. After investigation into Kheroni Police Station Case no. 56 of 2019, the Investigating Officer [I.O.] of the case submitted a charge sheet on 31.05.2019 finding a prima facie case against the petitioners for commission of the offences under Section 143 and Section 323, IPC. Thereafter, charges were accordingly framed.

3. A Cabinet decision was taken on 11.09.2022 to the effect that all petty/minor cases registered up to 14.08.2022 wherein punishments are prescribed up to three years, would be withdrawn and a Standard Operating Procedure [SOP] has also been issued to that effect on 21.10.2022. The said Cabinet decision was also communicated to all the Public

Prosecutors/Additional Public Prosecutors/Assistant Public Prosecutors by a Letter dated 09.12.2022 of the Legal Remembrancer –cum- Commissioner & Secretary to the Government of Assam, Judicial Department authorizing them to file applications under Section 321, CrPC before the respective Court for withdrawal of such petty/minor cases.

4. It is in the above backdrop, the petitioners have preferred this writ petition with a grievance that despite the Cabinet decision dated 11.09.2022; the SOP dated 21.10.2022; and the Letter dated 09.12.2022, proper steps have not been taken by the concerned Public Prosecutor for withdrawal of the case, PRC Case no. 431/2019, which arose out of an incident dated 14.05.2019 and involve offences with prescribed punishment of less than three years.

5. On 30.08.2024, Mr. S. Baruah, learned Junior Government Advocate was asked to obtain instruction in connection with the case, PRC Case no. 431/2019 on the aspect whether the case should fall within the ambit of the Cabinet decision dated 11.09.2022; the SOP dated 21.10.2022; and the Letter dated 09.12.2022.

6. Mr. Baruah, learned Junior Government Advocate has placed a Communication dated 05.11.2024 of the Additional Public Prosecutor, West Karbi Anglong, Hamren, addressed to him and has submitted that the Judicial Department, Government of Assam has already accorded approval for withdrawal of the case, PRC Case no. 431/2019 and the same would be placed before the Court of learned Chief Judicial Magistrate, Hamren on the next date of listing, 20.11.2024.

7. On perusal of the Letter dated 05.11.2024, it transpires that the Legal Remembrancer –cum- Commissioner & Secretary to the Government of Assam, Judicial Department has already accorded approval for withdrawal of the case, PRC Case no. 431/2019 and as such, it would be for the concerned Public Prosecutors/Additional Public Prosecutors/Assistant Public Prosecutors to move an appropriate application before the jurisdictional court, that is, the Court of learned Chief Judicial Magistrate, Hamren.

8. As the case, PRC Case no. 431/2019 is posted to 20.11.2024 and in view of the

Communication of the Additional Public Prosecutor, West Karbi Anglong, Hamren that an application would be moved before the Court of learned Chief Judicial Magistrate, Hamren with a prayer for withdrawal of the case, PRC Case no. 431/2019, on 20.11.2024, this Court is of the considered view that no cause of action has survived to continue with the writ petition. Since the prayer for withdrawal of case, PRC Case no. 431/2019 would be moved by the Additional Public Prosecutor on 20.11.2024, it is for the learned Chief Judicial Magistrate, Hamren to pass appropriate order on such application. Accordingly, the instant writ petition is closed. If the petitioners are aggrieved by any order to be passed by the Court of learned Chief Judicial Magistrate, Hamren, the petitioners would always be at liberty to seek appropriate remedy in accordance with law.

9. The Communication dated 05.11.2024 placed by Mr. Baruah, learned Junior Government Advocate be kept with the case records by marking it as Document 'X'.

JUDGE

Comparing Assistant