

GAHC010177792023



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

Case No. : Crl.Pet./875/2023

IMAN HUSSAIN TALUKDAR @ DHULU BABU
S/O MD. HAIDAR ALI TALUKDAR
VILL- KHUTABAGRA, PART-I,
P.S. KAZIGAON,
DIST. KOKRAJHAR, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
TO BE REP. BY THE PP, ASSAM

2:FAYZULHOQUE TALUKDAR
SON OF MD. EUSUB ALI
R/O VILL- KHUTABAGRA
PART-I

P.O. ALAMGANJ
P.S. KAZIGAON
DIST. KOKRAJHAR
ASSA

Advocate for the Petitioner : MR. A K AHMED

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

17.07.2024

Heard Mr. A. K. Ahmed, learned counsel for the petitioner. Also heard Mr. K. Baishya, learned Additional Public Prosecutor for the State respondent No. 1 and Mr. N. Uddin, learned counsel for the respondent No.2.

This application filed under Section 483 of the Code of Criminal Procedure, 1973 praying for quashing of the FIR dated 11.06.2023 in connection with Kazigaon P. S. Case No. 49/2023 registered under Sections 342/506 of IPC *read with* Section 4 of the POCSO Act.

The learned counsel for the petitioner submits that the present petition has been filed praying for the quashing of the FIR dated 11.06.2023, registered as Kazigaon P. S. Case No. 49/2023 under Sections 342/506 of IPC *read with* Section 4 of the POCSO Act. He further submits that at the time of the incident, the victim was a student of class II and was present at school. In this regard, he has already obtained some documents from the school authority which show that the victim was indeed present in school. Therefore, false and concocted allegations have been brought against the present petitioner, and for this reason, the instant application has been filed.

In this context, Mr. Uddin, learned counsel for respondent No. 2, has submitted that the petition cannot be entertained at this stage. He has obtained instructions from his client, and according to the portal of the District and Sessions Court, Kokrajhar, the case is currently at the stage of defence evidence after recording the statement of the accused/petitioner under Section 313 of the Cr.PC. According to the status report submitted by Mr. Uddin, the next date fixed

is 06.08.2024 for defence evidence. Therefore, he contends that quashing of the FIR or entertaining the petition under Section 482 of the Cr.P.C is not maintainable at this stage.

On the other hand, Mr. Baishya, learned Additional Public Prosecutor has submitted that the case is towards the end of trial and has raised objections to the prayer made by the learned counsel for the petitioner, stating that such a petition is not maintainable at this stage.

In this regard, Mr. Ahmed, learned counsel for the petitioner, has submitted that he has already collected documents regarding the victim's presence at school during the relevant time of the incident. Based on this evidence, he prays for quashing of the FIR dated 11.06.2023.

After hearing the submissions made by the learned counsels for both sides and considering the case status report of the Session Special POCSO Case No. 157/2023 arising out of Kazigaon P. S. Case No. 49/2023, it is seen that the Sate defence statement was recorded on 12.07.2024, and the next date is fixed on 06.08.2024 for defence witness. Thus, considering the entire facts and circumstance of the case, this Court is of the opinion that at this stage, the present petition cannot be entertained and accordingly, the same stands dismissed. The petitioner will be at liberty to take his proper defence while adducing defence witness.

In view of above, this criminal petition stands disposed of.

JUDGE

Comparing Assistant