

GAHC010179242023



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

Case No. : Crl.Pet./863/2023

JAY PRAKASH SHARMA @ JAI PRAKASH SHARMA
S/O- MR. BANWARI LAL SHARMA, R/O- SILA CHOUKIGATE, CHANGSARI,
KAMRUP, ASSAM, P.S. CHANGSARI.

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE P.P., ASSAM

2.:JASBIR SING CHATUA (INFORMANT)
S/O- MANJEET SINGH
R/O- WING-A
T.P. NAGAR
WARDHMAN NAGAR
LAKADGANJ
MAHARASHTRA
INDIA
PIN- 440008
PERMANENT RESIDENT OF SHYAM KUTIR
NEAR BABADEEP SINGH JI GURDWARA
BABA DEEP SINGH NAGAR
POWER GRID CHOWK
NARI UPPALWADI
NAGPUR-440026

Advocate for the Petitioner : MR Z ALAM, MR. N D SARMA,MS. S NAZNEEN

Advocate for the Respondent : PP, ASSAM, MS S S ZIA (r-2)

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

22.08.2024

Heard Ms. S. Nazneen, learned counsel appearing for the petitioner and Mr. K. Baishya, learned Additional Public Prosecutor, Assam for the State respondent No.1. Also heard Ms. S. S. Zia, learned counsel appearing for the respondent No.2/informant.

2. Petitioner is in transport business and owner of "Sri Ganesh Carrier, Krishna Carrier". The respondent No.2 as an informant, on 17.11.2022 lodged a written Ejahar before the Officer-in-Charge of Changsari Police Station stating that he works as a broker for Bijoy Kimmat Rai Krishnani, a betel nut businessman and resident of Nagpur, Maharashtra. Said Bijoy Kimmat Rai Krishnani purchased betel nuts in a Government auction in December, 2021. After such auction purchase, he (the informant) asked Bijoy Kimmat Rai Krishnani to give the responsibility of transporting the items to one "Sri Ganesh Carrier, Krishna Carrier" to Nagpur.

3. Pursuant to the same, the petitioner, the owner of said "Sri Ganesh Carrier, Krishna Carrier" took the goods on its custody and stored them at his own godown at Sila Chowkigate near Arya Nursing College.

4. The informant in the F.I.R stated that after few days, the petitioner informed him that the auction purchaser Bijoy Kimmat Rai Krishnani told him that police seized the betel nuts and sealed his godown and the petitioner asked him not to come to Assam stating that police is in search of him in the case and was also informed him (the informant) that the petitioner could not release the said goods through the order of

the Court.

5. Subsequently, the informant came to know that the petitioner cheated them impersonating himself as the owner of the seized goods and released those goods obtaining order from the Court by submitting forged documents and sold those betel nuts that the informant purchased in Government auction. As such, the informant/respondent No.2 in his written Ejahar dated 17.11.2022 submitted before the Officer-in-Charge of Changsari Police Station that the petitioner cheated him and by the said Ejahar requested the authority concerned to take necessary action in that regard.

6. The said written Ejahar of the respondent/informant No.2 was registered as Changsari Police Station Case No.442/2022 under Sections 419/420/407/468/471 IPC, corresponding to G.R. No. 1647(K)/2022.

7. By placing a copy of the order dated 20.07.2022, passed by the learned Additional Chief Judicial Magistrate, Kamrup, Amingaon in said Changsari P.S. Case No.442/2022, the petitioner submitted that zimma of the said seized betel nuts from the godown of the petitioner amounting to 37,922 kgs were given to the actual owner Bijoy Kimmat Rai Krishnani at Rs.1,50,00,000/- to the satisfaction of the concerned Investigation Officer of said Changsari P.S. Case No.442/2022. Therefore, he filed this criminal petition, praying to quash the F.I.R dated 17.11.2022 and set aside the proceeding of said Changsari P.S. Case No.442/2022 initiated against him.

8. By order dated 22.08.2023, the Court called for the Case Diary of said Changsari P.S. Case No.442/2022. Thereafter, on 26.09.2023 and 29.07.2024, on the prayer of the public prosecutor, the Court granted time to the Investigating Officer of Changsari P.S. Case No.442/2022 to produce the Case Diary. In spite of such orders, the Case Diary relating to said Changsari P.S. Case No.442/2022 was not produced before the Court. As such, on 14.08.2024, the Court directed the Officer-in-Charge of Changsari Police Station as well as the Investigating Officer of said Changsari P.S. Case No.442/2022 to remain personally present before the Court today.

9. Pursuant to the said order of the Court dated 14.08.2024, Mr. Bharat Doley, the

Officer-in-Charge of Changsari Police Station-cum-Investigating Officer of said Changsari P.S. Case No.442/2022 personally appeared before the Court stating that he did not receive any information earlier regarding the production of the relevant Case Diary, noted above.

10. However, Mr. Bharat Doley, the Officer-in-Charge of Changsari Police Station-cum-Investigating Officer of said Changsari P.S. Case No.442/2022 submits that in December, 2023 itself, a Final Report was submitted before the learned Chief Judicial Magistrate, Kamrup, Amingaon in said Changsari P.S. Case No.442/2022.

11. Mr. K. Baishya, learned Additional Public Prosecutor, Assam submits that in the later half on 14.08.2024 itself, the Office of the Public Prosecutor received the communication from the Officer-in-Charge of Changsari Police Station pertaining to said Changsari P.S. Case No.442/2022, but the same could not be placed before the Court as the relevant matter was taken-up and order was already passed.

12. From the said communication of the Officer-in-Charge of Changsari Police Station dated 14.08.2024, Mr. K. Baishya, learned Additional Public Prosecutor for the State submits that after completion of the investigation, as no sufficient evidence or witnesses could be found in the matter against the petitioner, therefore, by F.R. No.221/2023 dated 31.12.2023, the Officer-in-Charge of Changsari Police Station submitted the Final Report in said Changsari P.S. Case No.442/2022 for its closure .

13. Since the Officer-in-Charge of Changsari Police Station-cum-Investigating Officer of said Changsari P.S. Case No.442/2022 after completion of the investigation of the said case, has already submitted Final Report in said Changsari P.S. Case on 14.08.2024, this Criminal Petition, being infructuous, stands dismissed.

14. Ms. S. S. Zia, learned counsel for the informant/ respondent No.2 at this stage submits that she has the instruction that the informant/respondent No.2 has not yet received any information regarding the submission of Final Report in said Changsari P.S. Case No.442/2022 that was registered on the basis of his written Ejahar on 17.11.2022.

15. Needless to say that the respondent No.2/informant of said Changsari P.S. Case

No.442/2022 may approach the Chief Judicial Magistrate, Amingaon against the said Final Report No.221/2023 dated 31.12.2023 submitted in said Changsari P.S. Case No.442/2022 by filing Protest (*Narazi*) Petition, if so advised.

16. The Officer-in-Charge of Changsari Police Station is ordered that henceforth; he shall comply with the Court's order forthwith.

17. Copy of the communication dated 14.08.2024 submitted by the Officer-in-Charge of Changsari Police Station be kept as a part of the record.

18. Accordingly, this criminal; petition stands dismissed.

JUDGE

Comparing Assistant