

GAHC010193752022



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

Case No. : Crl.Pet./971/2022

TANCHENG PHUKAN
SON OF SRI PRADIP PHUKAN
R/O VILL- CHETIA GAON
WARD NO. 4, P.O. NORTH LAKHIMPUR
P.S. NORTH LAKHIMPUR, PIN-787001, DIST. LAKHIMPUR, ASSAM

VERSUS

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

2:SMTI. KALPANA BHUYAN
D/O SRI BHUPEN BHUYAN
R/O VILL- ARA DHAL
P.O. AA DHAL
P.S. DHEMAJI
DIST. DHEMAJI
ASSAM
PIN-787057 (INFORMANT)

Advocate for the Petitioner : MR. B GOGOI, MR. K R PATGIRI

Advocate for the Respondent : PP, ASSAM, MR. S DIHINGIA (R-2), MR. A GOHAIN (R-2)

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

29-07-2024

Heard Mr. K. R. Patgiri, learned counsel for the petitioner and Mr. K. Baishya, learned Additional Public Prosecutor, Assam for the respondent No.1. Also heard Mr. A. Gohain, learned counsel for the respondent No.2/informant.

2. On the basis of an FIR lodged by the respondent No.2 before the Officer-in-Charge of Dhemaji Police Station on 05.08.2020, Dhemaji P.S. Case No. 321/2020 corresponding to PRC No. 239/2022 under Section 366/376/294 IPC was registered against the petitioner. After completion of investigation of the said case, the Investigating Officer on 29.11.2021 vide charge sheet No.237/2021 submitted the charge sheet in said Dhemaji P.S. Case No. 321/2020 against the petitioner under Section 376 IPC.

3. The learned Sessions Judge, Dhemaji by order dated 26.08.2022 passed in Sessions Case No. 79(DH)/2022 arising out of said PRC No. 239/2022 (reference Dhemaji P.S. Case No. 321/2020) framed charge under Section 376 IPC against the petitioner.

4. Aggrieved with said framing of charge under Section 376 IPC against him on the basis of the said charge sheet No.237/2021 dated 29.11.2021 in Dhemaji P.S. Case No. 321/2020 corresponding to PRC No. 239/2022, the petitioner on 20.09.2022 filed this criminal petition praying amongst others, to set aside and quash the charge sheet No.237/2021 dated 29.11.2021 filed in said Dhemaji P.S. Case No. 321/2020 corresponding to PRC No. 239/2022 (reference G.R. No. 812/2020).

5. Though the Court on 23.09.2022 issued notice to the respondents herein, but did not stay the proceeding of said Sessions Case No.79 (DH)/2022 pending before the Court of learned Sessions Judge, Dhemaji arising out of Dhemaji P.S. Case No. 321/2020 against the petitioner.

6. In the meanwhile, both Mr. Patgiri, learned counsel for the petitioner and Mr. Gohain,

learned counsel for the respondent No.2 submitted that the evidence of prosecution witnesses have already been recorded and today is the date fixed for recording of statement of petitioner under Section 313 CrPC.

7. This Court while issuing notice on 23.09.2022 called for the scanned copy of said Sessions Case No.79 (DH)/2022 corresponding to PRC No. 239/2022 arising out of Dhemaji P.S. Case No. 321/2020.

8. Perused the records of said Sessions Case No.79 (DH)/2022.

9. It is seen that the learned Trial Court has already recorded the statements of prosecution witnesses, including the statement of the victim/informant.

10. After hearing the learned counsels for the parties, considering the materials in the relevant case diary as well as Section 164 CrPC statement of the victim of the case, this Court found that it does not come under the purview to be a fit case to prevent abuse of the process of Court or to secure ends of justice.

11. Accordingly, being not a fit case to exercise the power under Section 482 CrPC to quash the proceeding of Sessions Case No. 79(DH)/2022 arising out of PRC No. 239/2022 (Dhemaji P.S. Case No. 321/2020) as well as the charge sheet No.237/2021 filed in said Dhemaji P.S. Case No.321/2020 as prayed for, this criminal petition, being devoid of any merit stands dismissed.

JUDGE

Comparing Assistant