

GAHC010227032014



2024:GAU-AS:12485

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

Case No. : Crl.Pet./807/2014

MD. TASLIM ARIF
S/O SUJIMUDDIN AHMED R/O VILL and P.O. BATIPORIA, P.S. DERGAON,
DIST. GOLAGHAT, ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR

2:NASIMA YASMIN
D/O MD.
MOTIUR RAHMAN R/O VILL- NAHARANI GAON
P.S. DERGAON
DIST. GOLAGHAT
ASSAM

Advocate for the Petitioner : MS.S BARUA, MR.R KALITA,MR.B D KONWAR,MR.R
SALOI,MRS.J M KONWAR

Advocate for the Respondent : , MR.A BARUA(R-2),MR.B BORA(R-2),,PP, ASSAM

Linked Case : Crl.Pet./806/2014

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P.S. DERGAON
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ASSAM.

Advocate for : MR.R SALOI

Advocate for : MR.A BARUAR-2 appearing for THE STATE OF ASSAM AND ANR

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 11-12-2024

1. Heard Mr. H Agarwal, learned counsel for the petitioner. Also heard Mr. P Borthakur, learned Addl. PP, Assam and Mr. D Bora, learned counsel for the informant/victim.
2. These two petitions are taken up together for final disposal. In Crl.Pet No.806/2014, an FIR dated 07.02.2014 registered as Dergaon PS Case No.73/2014 under sections 376/313/500 IPC is under challenge. In Crl.Pet No.807/2014, the challenge is made to the FIR registered as Dergaon PS Case No.18/2014 under sections 417/366/109/506/34 IPC. Both the FIR's are lodged by the respondent No.2.
3. Dergaon PS Case No.18/2014 was lodged on 08.01.2014 by the respondent No.2 against the petitioner, inter alia alleging that on 06.01.2014, at about 5.00 PM, she was kidnapped by the accused on the instruction of one Ashiya Khatun and she was kept confined. In the FIR, she further alleged that the accused persons cheated her by giving false inducement and the accused petitioner gave her inducement of marriage and otherwise threatened to kill her.

4. Dergaon PS case No.73/2014 was lodged on 25.02.2014. In the said FIR it is alleged that the accused petitioner and the informant/respondent No.2 has been in a romantic relationship since last 4 years and the accused gave her inducement to marry and established physical relationship. Subsequently she conceived, however, the pregnancy was aborted by the accused petitioner by giving medicine.

5. In the proceeding, the informant has filed an affidavit stating that though she do not wish to deny the allegation she had brought against the accused petitioner, but according to her, she had never alleged any rape against the accused petitioner. It is also specifically stated in the affidavit that the victim wants to start her life afresh and do not want to continue with the prosecution launched against the accused petitioner.

6. It is stated by the learned counsel for the respondent that she had in the meantime got married and having her happy married life inasmuch as, the accused has also in the meantime married.

7. In the totality of the matter and perusal of both the FIR's, what is discernible is that the accused and the petitioner had a romantic relationship which was broken at the point of time when the FIR was lodged. Therefore, in the totality of the matter, no case under sections 376/366 IPC is made out from the bare perusal of the record.

8. Another aspect of the matter is as the parties have agreed to settle the dispute amicably and the victim, respondent No.2 decided not to prosecute the accused, therefore, in the totality of the matter, no fruitful purpose will be served, if the accused petitioner is allowed to face the prosecution, more particularly, when the victim had filed the affidavit before

this court clearly stating that she is not interested to pursue this matter and there was admittedly a relation between them and now the victim wants to lead a happy life.

9. In view of the above, the present petition stands allowed.

10. Accordingly the FIR dated 07.01.2014 and charge sheet dated 24.05.2014 under sections 366/376/506 IPC arising out of GR Case No.60/2014 and FIR dated 25.02.2014 & charge sheet dated 31.05.2014 under section 313/500 IPC arising out of GR Case No.356/2014 pending in the court of learned CJM, Golaghat are set aside and quashed.

JUDGE

Comparing Assistant