

GAHC010229392022



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

**Case No. : Crl.Pet./1137/2022**

MD. MAFIJUR RAHMAN @ MOFIJUR RAHMAN  
S/O NIZAM UDDIN  
R/O VILL- CHAL-CHALI, KAKI,  
P.S. KAKI  
DIST. HOJAI, ASSAM

VERSUS

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

2:MD. AINUL HOQUE  
LATE SAMSUL HOQUE  
R/O VILL- KAKI CHAL-CHALI

NO. 7 GAON  
P.S. KAKI  
DIST. HOJAI  
ASSA

**Advocate for the Petitioner : MR B CHANDA**

**Advocate for the Respondent : PP, ASSAM**

**BEFORE**  
**THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY**  
**ORDER**

**27.05.2024**

1. Heard Mr. B Chanda, learned counsel for the petitioner. Also heard Mr. B Sarma, learned Additional Public Prosecutor, Assam and Mr. MH Ahmed, learned counsel for the respondent No. 2.
2. The present application is filed under Section 482 Cr.P.C. for quashing of the charge-sheet No. 30/2019 filed in connection with Kaki PS case No. 17/2019 corresponding to PRC case No. 1288/2019.
3. An FIR was lodged by the respondent No. 2, inter-alia, alleging that the petitioner herein had declared his education qualification on the basis of a forged certificate purportedly issued by the Assam Sanskrit Board, Kahilipara, Guwahati.
4. On the basis of the aforesaid FIR, the Kaki police station case No.17/2019 was registered and investigation was started. During the course of investigation, the investigating officer recorded the statement of witnesses and also seized certain documents including one original School Pravesika Examination passed verification report of the petitioner from the headmaster of the school, in which the petitioner studied, according to the petitioner.
5. Original certificate of the petitioner purportedly issued by the Assam Sanskrit Board, Kahilipara and the mark-sheet had also been seized and statement of the authorities had also been recorded. On the basis of the aforesaid, charge-sheet was filed and accordingly the learned trial court under its order dated 18.04.2022 framed charges against the petitioner under Section 468/471/465 IPC. From the material available on record, the learned trial court had a prima-facie satisfaction against commission of the offences as discussed hereinabove.
6. It is by now well settled that at the stage of framing charges, the court has to consider the material only with a view to find out if there is any ground for presuming that the accused has committed the offence. In the case in hand, from the materials available on the case diary, including the report on the seized

documents, if are taken to be correct on its face value, discloses existence of the ingredience of the offences alleged to have been committed. Though the learned counsel for the petitioner has urged that this is a malicious prosecution inasmuch as the respondent No. 2's wife and the petitioner contested Panchayat election, wherein the present petitioner was successful defeating the respondent No.2's wife, however, same cannot be ground for quashment of entire proceeding by appreciating and / or re-appreciating the statements made by the witnesses and the documents seized by the investigating authorities, more particularly in view of the material collected by the I/O during investigation of the case, including the report of the Sanskrit Board supporting the case of the prosecution.

7. This court in exercise of power under Section 482 Cr.P.C. cannot consider the allegation on merit and cannot make an enquiry to find out on the basis of materials collected, the accused is likely to be convicted or not more particularly when there are grave suspicions from the available material on record as regards commission of the offence. While considering discharge, this court cannot do a mini trial and only to look into the material available on record to consider that even if it is taken on its face value and treated to be correct, there will be no suspicion that accused has committed the offence.
8. Accordingly, the present petition stands dismissed being devoid of merit. Interim order, if any, stands vacated.

**JUDGE**

**Comparing Assistant**