

GAHC010262852024



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

Case No. : Crl.Pet./1512/2024

NUR UDDIN SHEIKH AND ANR
S/O LATE ABDUL AHAD MIAH
R/O VILL- JHAGRARP PAR PART-III
P.O. DHUBRI
P.S. DHUBRI
DIST. DHUBRI, ASSAM

2: NUR ALOM AHMED
S/O NUR UDDIN SHEIKH
R/O VILL- JHAGRARP PAR PART-III
P.O. DHUBRI
P.S. DHUBRI
DIST. DHUBRI
ASSA

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP, ASSAM

2: BABUR ALI
S/O LATE ASOT SHEIKH
VILL- JHAGRARP PAR PART-III

P.O. DHUBRI

P.S. DHUBRI
DIST. DHUBRI
ASSAM
PIN-78332

Advocate for the Petitioner : MR H R A CHOUDHURY, MR. M MONDAL, MR S K
CHHETRY, MR. M ISLAM, MR. N UDDIN

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

12.12.2024

Heard Mr. H R A Choudhury, learned senior counsel for the petitioners, assisted by Mr. N Uddin, Advocate.

Also heard Mr. R R Kaushik, learned Additional Public Prosecutor, Assam.

This is an application filed under Section 528 of the BNSS, 2023 praying for setting aside the order dated 06.11.2024 passed by the learned Additional Sessions Judge, Dhubri in Sessions Case No. 196/2013.

The trial of the Sessions Case No. 196/2013 is going in the court of the learned Additional Sessions Judge, Dhubri.

After examination of some witnesses, the Additional Public Prosecutor filed an application stating that some other persons are also involved in this case and, therefore, they should be impleaded as accused under Section 319 CrPC. Therefore, on 06.11.2024, the learned trial court impleaded the present petitioners along with other persons as accused in the said case and directed that summons be issued to them.

I have considered the submission made by the learned counsel for both sides. On a plain reading of the application, filed by the Additional Public Prosecutor, it appears that this application was not addressed to anyone. Therefore, the trial court is directed to be careful while accepting such application.

So far as the law is concerned, Section 319 CrPC says that where, in the course of any inquiry into or trial of an offence, it appears from the evidence that any person not being the accused has committed any offence, the court has the power to implead them as accused. Therefore, in such a circumstances, the court has to exercise judicial discretion at this stage. The Additional Public Prosecutor or any persons do not have the entitlement to ask a court to implead some other persons as accused.

For the reasons aforementioned, the impugned order 06.11.2024 passed by the learned Additional Sessions Judge, Dhubri in Sessions Case No. 196/2013 is set aside.

The trial court is directed to expeditiously dispose of the trial of the case.

The criminal petition is disposed of.

JUDGE

Comparing Assistant