GAHC010014042020

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

Case No. : Crl.Pet./47/2020

HARMOHAN KALITA AND ANR.
S/O- LATE ADIT CH DEKA, R/O- VILL NATUNGAON, P.O AND P.S- JAGIROAD, DIST- MORIGAON, , ASSAM, PIN- 782410

2: NARAYAN PRASAD SHARMA
S/O- LATE KHUMANANDA SHARMA
R/O- VILL- NATUNGAON
P.O AND P.S- JAGIROAD
DIST- MORIGAON
ASSAM
PIN- 78241

VERSUS

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

2:PRAVHAT CHANDRA SAIKIA
S/O- SRI JUNARAM SAIKIA
ASSTT EXECUTIVE ENGINEER
PWD (BUILDING)
MORIGAON SUB DIVISION
DIST AND P.O- MORIGAON
ASSAM
PIN- 782410

Advocate for the Petitioner : MR. B K DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MIR ALFAZ ALI

ORDER

Date : 02-12-2020

Heard Mr. B.K. Das, learned counsel for the petitioner. Also heard Ms. S. Jahan, learned Addl. P.P., Assam for the respondent No. 1, as well as Mr. A. Deka, learned counsel for the respondent No. 2.

By this petition under Section 482 CrPC, the petitioner prays for quashing the proceeding in GR Case No. 1450/2019 arising out of Jagiroad P.S. Case No. 284/2019 under Section 420/406 IPC.

Learned counsel for the petitioner submits that the petitioner was entrusted with a contract for construction of a classroom and supplying furniture. The classroom was constructed and the furniture were also supplied. However, having found defect in the furniture, the then Principal refused to accept the furniture and as such, the petitioner took back the same, and later on he again supplied the furniture to the school. However, in the meantime, the FIR was lodged and as such, the then Principal was reluctant to take delivery of the furniture in view pendency of the criminal proceeding before the court. Learned counsel further submits that as the Principal did not take delivery of the furniture the bill was also not paid.

The informant has also filed an affidavit supporting the contention of the petitioner that the contractor (petitioner) subsequently supplied the furniture, but the Principal did not accept the same because of pendency of the case as in the meantime, the FIR was lodged without verifying the real state of affairs.

The allegation made in the FIR was that the petitioner did not supply the furniture and misappropriated the money. It is also admitted that no payment was made and as such, there was no question of misappropriation by the petitioner/contractor.

In view of the above fact situation and the admission of the informant himself, it is apparent that the FIR was lodged due to mis-information and the allegation made in the FIR was admittedly not correct as is evident from the affidavit of the informant.

In view of the above facts and circumstances, this court is of the view that allowing this criminal proceeding to continue would not serve any cause of justice,

inasmuch as, from the stand taken by the informant, it is apparent that possibility of the proceeding culminating in conviction of the petitioner is very very bleak. Therefore, continuation of the criminal proceeding in the present case would unnecessarily put the petitioner in hardship and oppression, which may amount to abuse of process of the court and as such, the proceeding deserves to be quashed for ends of justice. Accordingly, the proceeding in GR Case No. 1450/2019 arising out of Jagiroad P.S. Case No. 284/2019 under Section 420/406 IPC pending in the court of the learned CJM, Morigaon and any other proceeding incidental thereto is hereby quashed.

The criminal petition is disposed of.

JUDGE

Comparing Assistant