GAHC010222592018

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
Case No. : Crl.Pet./1009/2018

AZAHAR ALI AND ANR.
S/O LATE ESHAHAQUE
R/O VILL- SHYAMCHARANERKUTI PART-II,
P.O. SHILAIPAR, P.S. GAURIPUR
DIST. DHUBRI, ASSAM, PIN - 783323.
2: ANTAZ ALI
S/O LATE ESHAHAQUE
R/O VILL- SHYAMCHARANERKUTI PART-II
P.O. SHILAIPAR
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN - 783323
VERSUS
THE STATE OF ASSAM AND 2 ORS.
REP. BY PP, ASSAM
2:SADEK ALI
S/O NAWSHAD ALI
R/O VILL- SHYAMCHARANERKUTI
PART- II
P.O. SHILAIPAR
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN - 783323.
3:ELIMA KHATUN
D/O NAWSHAD ALI
R/O VILL- SHYAMCHARANERKUTI
PART- II
P.O. SHILAIPAR
P.S. GAURIPUR
DIST. DHUBRI
ASSAM
PIN - 783323

Advocate for the Petitioner : MR F K R AHMED
Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MIR ALFAZ ALI

ORDER

Date : 11-12-2020

Heard Mr. FKR Ahmed, learned counsel for the petitioners and Ms. S. Jahan, learned Addl. Public Prosecutor, Assam, appearing for the State respondent. Also heard Mr. S. Islam, learned counsel for the respondent Nos. 2 and 3.

This petition under Section 482 of the Cr.P.C. has been filed prying for quashing the FIR dated 16.01.2016 lodged by the respondent No. 2 and criminal proceeding in Gauripur P.S. Case No. 54/2016 registered under Sections 147/149/342/109/366A of the IPC.

The learned counsel for the petitioners submits that the FIR was lodged by the respondent No. 2 due to misunderstanding and immediately after lodging the FIR he also informed the police by way of swearing an affidavit, that the FIR was lodged due to misunderstanding and requested the police not to proceed with the case. However, the police proceeded with the case and submitted charge sheet. It is also submitted that as the FIR was lodged due to misunderstanding, the parties have amicably settled and compromised the case and prays for quashing the criminal proceeding on the basis of of the compromise arrived at between the parties, inasmuch as, the offence is non-compoundable.

Pursuant to the notice issued from this court, the victim girl and her father, the respondent Nos. 2 and 3 respectively, entered appearance through the learned counsel Mr. S. Islam and also filed affidavit supporting the case of the petitioners. Mr. S. Islam, learned counsel representing the respondent Nos. 2 and 3. also joins hand with the petitioners for quashing the proceeding and submit that the FIR was lodged due to misunderstanding.

Though, it was alleged in the FIR that the daughter of the informant (respondent No. 2) was kidnapped by four persons including the petitioners alongwith others, in the affidavit filed by the respondent Nos. 2 and 3 it has been stated that on 16.01.2016, the respondent

No. 3 went to the nearby house where a person died. Since it was night and she was alone, two minor sons of the petitioners accompanied the respondent No. 3 to her house on the request of the respondent No. 3. After the respondent No.3 was lift in her house, she eloped with one Rafique Ali, a resident of Village- Khagrabari with whom she ultimately got married. Since the sons of the petitioners were found accompanying the respondent No. 3 at night the FIR was lodged due to some misunderstanding. From the affidavit submitted before the police also, it appears that during the investigation itself, the petitioners informed the police about the real fact of the case and requested the police not to proceed with the case.

In view of the above facts and circumstances, more particularly the stand taken by the alleged victim and her father, it is apparent that the possibility of the criminal proceeding culminating in conviction of the petitioners is very bleak, for the simple reason, that the star of the witnesses of the case are not going to support the prosecution version. Therefore, in all probality, this criminal proceeding is likely to take the character of lame prosecution. Thus having regard to the scope of interference with the criminal proceeding in exercise of inherent powers, on the basis of the compromise arrived at between the parties and the facts and circumstances of the present case as indicated above, this court is of the view that allowing the proceeding to continue is not going to serve any fruitful purpose except for the harassment of the petitioners and as such, the proceeding deserves to be quashed for the ends of justice.

Accordingly, the FIR dated FIR dated 16.01.2016 lodged by the respondent No. 2 and the criminal proceedings in Gauripur P.S. Case No. 54/2016 registered under Sections 147/149/342/109/366A of the IPC and any other proceedings incidental thereto are hereby quashed.

The petition is disposed of.

JUDGE

Comparing Assistant