GAHC010311062019

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

Case No. : Crl.Pet./1493/2019

MOFIDUL ISLAM AND ANR.
S/O- LATE ABARAT ALI @ ABRAT AKOND, VILL- GUTIPARA PT- IV, P.O- GUTIPARA, P.S- BILASIPARA, DIST- DHUBRI, ASSAM, PIN- 783348

2: SUKU ALI @ SABURUDDIN
S/O- KAINCHA SK
R/O- VILL- SADHUBASHA PART-I
P.O- MAKRIJHOARA
P.S- GAURIPUR
DIST- DHUBRI
ASSAM
PIN- 78334

VERSUS

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

2:NAZIMA KHATUN
W/O- MOFIDUL ISLAM
D/O- NAWSHAD ALI
VILL- GUTIPARA PT IV
P.O- GUTIPARA
P.S- BILASIPARA
DIST- DHUBRI
ASSAM
PIN- 78334

Advocate for the Petitioner : MR. B SINHA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MIR ALFAZ ALI

ORDER

Date : 22-12-2020

By this application jointly filed by the accused (petitioner No. 1) and the alleged victim (petitioner No. 2) under Section 482 of the Cr.P.C. prays for quashing the proceeding in Bilasipara P.S. Case No. 20/2017 (Corresponding to G.R. Case No. 37/ 2017) registered under Sections 120(B)/ 420/506 IPC read with Section 4 of the POCSO Act.

2. The learned counsel for the petitioners submits the petitioner No. 1 and the victim (Petitioner No. 2) had affairs, and petitioner No. 2 eloped with the petitioner No. 1 with a view to marry him. After two months of her elopement both the petitioner No. 1 and the alleged victim got married and they have been living peacefully as husband and wife with the child born out of their wedlock. However, the father of the petitioner No. 2, lodged the FIR alleging kidnapping and sexual assault on the petitioner No. 2. Further contention of the learned counsel is that having realised the real facts the informant/ respondent No. 2 also compromised the case with the petitioner No. 1. Since the case has been registered under Sections 120(B)/ 420/506 IPC read with Section 4 of the POCSO Act which are non-compoundable offence, the petitioners have approached this court for quashing the criminal proceeding.

3. Pursuant to the notice issued from this court, the father of the petitioner No. 2, (the respondent No. 2) entered appearance through the learned counsel Mr. R. Islam. It is submitted by the learned counsel for the respondent No. 2, that since the respondent No. 2 attained the age of majority and she is living with the petitioner No. 2 as husband and wife peacefully, after solemnisation of marriage, the respondent No. 2 entered into compromised for quashing the FIR. Thus, the respondent No. 2, the father of the alleged victim, who lodged the FIR has also joined hands with the petitioners for quashing the FIR and the proceeding. Though, allegation of kidnapping or rape have been made in the FIR, the materials on record and also the submission of the learned counsel for both side, more particularly the stand taken by the respondent No. 2, in my considered opinion, no cause of justice would be served by allowing the criminal proceeding to continue except causing hardship and harassment to the petitioners.

4. In view of the above, for the ends of justice, the proceeding in Bilasipara P.S. Case No. 20/2017 (Corresponding to G.R. Case No. 37/ 2017 registered under Sections 120(B)/ 420/506 IPC read with Section 4 of the POCSO Act. is hereby quashed

5. The petition is accordingly disposed of.

JUDGE

Comparing Assistant