



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

Case No. : Crl. Pet./17/2022

YOGESH KUMAR GUPTA
AGED ABOUT 38 YEARS,
S/O LATE NARSINGH GUPTA,
R/O VILLAGE-SINHA CHAWAR,
P.O CHILKAHAR, P.S GARWAR,
DISTRICT - BALLIA, UTTAR PRADESH

VERSUS

THE STATE OF NAGALAND AND ANR
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
NAGALAND, NAGALAND, KOHIMA 2:MR. GUPTESHWAR PRASAD GUPTA

S/O NARSINGH GUPTA

R/O H/NO.148
MIDDLE PWD COLONY

KOHIMA
NAGALAN

For the petitioner (s) : Mr. B. K. Upadhyay, Advocate

For the respondent (s) : Mr. Alezo Kire, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

08.04.2025

Heard Mr. B. K. Upadhyay, the learned counsel appearing on behalf of the petitioner and Mr. Alezo Kire, the learned counsel appearing on behalf of the respondents.

2. The petitioner herein has invoked the inherent jurisdiction of this Court under Section 482 read with the revisional powers under Section 397 and 401 of the Code of Criminal Procedure, 1973 seeking quashing of the Complaint Case being CR Case No.02/2022 as well as the various orders being passed by the learned Court of the Chief Judicial Magistrate, Kohima, Nagaland in connection with CR Case No.02/2022.

3. Taking into account the order which this Court proposes to pass, this Court is of the opinion that further detailing into the facts would prejudice both the parties, and as such, only on the limited aspect, the facts leading to the filing of the instant proceedings have been narrated infra.

4. The respondent No.2 herein has filed the criminal complaint before the learned Court of the Chief Judicial

Magistrate, Kohima, Nagaland against the petitioner herein alleging inter-alia that the petitioner herein has committed an offence under Sections 403/406/417/418/420 as well as 503 of the Indian Penal Code. Upon filing of the said complaint which was registered as Criminal Complaint No.02/2022, the learned Chief Judicial Magistrate, Kohima, Nagaland forthwith issued process upon the petitioner herein without taking recourse to Section 202 (1) of the Code of Criminal Procedure, 1973 which categorically mandates that when an accused resides outside the territorial jurisdiction of the Court, a mandatory enquiry is required to be carried out.

5. Taking into account that the petitioner herein admittedly resides in the State of Uttar Pradesh which is outside the jurisdiction of the learned Chief Judicial Magistrate, Kohima, Nagaland, it was incumbent upon the learned Chief Judicial Magistrate, Kohima, Nagaland to take resort to Section 202 (1) of the Code of Criminal Procedure, 1973 before issuance of process. The learned Chief Judicial Magistrate, Kohima, Nagaland having not taken into consideration the provisions of Section 202 of the Code of Criminal Procedure, 1973 before issuance of the process clearly shows complete non-application of mind.

6. Accordingly, the order dated 28.03.2022 passed in

Criminal Complaint No.02/2022 by the learned Court of the Chief Judicial Magistrate, Kohima, Nagaland is accordingly set aside and quashed.

7. This Court, however, in the facts of the instant case is not dealing with the challenge to the complaint filed by the respondent No.2 as the said aspect would only arise if the learned Chief Judicial Magistrate, Kohima, Nagaland after following the mandate of the provisions of Section 202 of the Code of Criminal Procedure, 1973 takes appropriate steps for issuance of process.

8. Accordingly, the instant proceedings stands disposed of thereby setting aside the order dated 28.03.2022 passed in Criminal Complaint Case No.02/2022.

9. The respondent No.2 herein shall approach the learned Court of the Chief Judicial Magistrate, Kohima, Nagaland with a certified copy of the instant order and on the basis thereof, the learned Chief Judicial Magistrate, Kohima, Nagaland by taking into account the relevant provisions of law decide as to whether a case for issuance of process has been made out or not.

10. Before parting with the records, this Court however finds it relevant to observe that this Court is not deciding in the instant proceedings as to whether a case is made out on the basis of a reading of the complaint for the reasons

aforesaid. However, it is observed that in the circumstance if the process is issued against the petitioner by the learned Chief Judicial Magistrate, Kohima, Nagaland, it shall not bar the petitioner to approach this Court challenging the complaint petition.

JUDGE

Comparing Assistant