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2026:GAU-AS:16431

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

Case No. : Crl.Pet./41/2014

MD AZMAL HUSSAIN SIKDAR
S/O OMAR ALI R/O VILL- GARAIMARI PATHAR P.S. BARPETA, DIST. BARPETA, ASSAM.

VERSUS

THE STATE OF ASSAM and ANR
REP. BY THE P.P. ASSAM.

2:MUSTT. FARIDA BEGUM
D/O LT. ABDUL BARI BHUYAN VILL- MAHTOLI BAZAR
P.O. MOHTOLI
P.S. BOKO DIST. KAMRUP R
ASSAM. PRESENT ADDRESS C/O MLA RAHMANIA HOSPITAL SIX MILE GUWAHATI

Advocate for the Petitioner : MR.M R CHOUDHURY, MR.Z RAHMAN,MRM H AHMED

Advocate for the Respondent : PP, ASSAM, MR. D K BHATTACHARYYA, AMICUS CURIAE (R-2),MS. D SAIKIA, Amicus Curiae for R-2,MR.S M BARUAH,MS.R DEKA

BEFORE

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

06/11/2026

Heard Mr. M H Ahmed, learned counsel for the petitioner. Also heard Mr. P Borthakur, learned Additional Public Prosecutor, Assam for the State respondent No. 1. None has appeared for the respondent No. 2.

2. The present criminal petition has been instituted by the petitioner, herein, praying for quashing of an FIR dated 18.10.2013, lodged by the respondent No. 2 and registered as Boko P.S. Case No. 405/2013 under Section 363 IPC, along with added Section 364(A) IPC.

3. From the materials brought on record, it is seen that the petitioner and the respondent No. 2 are husband and wife and had married on 04.11.2000. Out of the said wedlock, a female child, namely, Afsana Sikdar was born on 17.07.2006. The daughter of the petitioner was studying in St. Teresa's English Medium School, Barpeta. On account of certain matrimonial disputes arising between the petitioner and the respondent No. 2, they were staying separately.

4. The petitioner, herein, had lodged an information with the police of Hatigaon Police Station on 02.04.2012, inter-alia, highlighting, therein, that the respondent No. 2 had proceeded to Guwahati, on her own wish along with their minor child, Afsana Sikdar and was living with one Yar Mohammad at Guwahati.

5. It was further highlighted that on search being made, his daughter being found in the house of the father of the respondent No. 2 at Mahtoli, he had brought her and got her admitted in St. Teresa's English Medium School,

Barpeta. It was further highlighted that on 31.03.2012, the respondent No. 2, had called the petitioner to come to Guwahati along with her child for restarting their conjugal life and on 01.04.2012, the child being brought to Guwahati was kidnapped by miscreants hired by the respondent No. 2. It was further alleged that the petitioner had filed a case for guardianship at Barpeta and the matter was pending. It was prayed that a G.D. Entry of the said aspect be made. Thereafter, on 18.10.2013, the respondent No. 2 lodged an FIR before the police of Sontoli Outpost, inter-alia, alleging therein, that on 18.10.2013 at about 6:00 AM, the petitioner, herein, along with unknown person had forcefully kidnapped her daughter by a motorcycle. The said FIR was registered as Boko P.S. Case No. 405/2013 under Section 363 IPC. Subsequently, Section 364 (A) IPC was added.

6. The petitioner, herein, approached this Court, praying for anticipatory bail by way of instituting anticipatory bail application, being AB No. 81/2014. This Court vide order dated 08.01.2014, noticing that the petitioner, herein, was accused of kidnapping of his own daughter and further that the petitioner was declared as the guardian of his daughter by the District Judge, Barpeta, proceeded to grant anticipatory bail to the petitioner, herein. Thereafter, the petitioner has approached this Court by way of instituting the present criminal petition, praying for quashing of the FIR dated 18.10.2013.

7. I have heard the learned counsel for the parties and also perused the materials available on record.

8. From the materials brought on record, it is evident that there exist a matrimonial dispute between the petitioner and the respondent No. 2.

9. It is further brought on record that vide order dated 21.12.2013, the petitioner, herein, was appointed as the Guardian of his daughter, Afsana Sikdar by the District Judge, Barpeta in Misc. G/C Case No. 02/2012. The said appointment of the petitioner, herein, as the Guardian of his daughter still holds the field.

10. From a perusal of the FIR dated 18.10.2013, this Court does not find that the allegations, therein, to be satisfying the requirements of the sections under which the petitioner was being proceeded against. The petitioner, herein, has already been declared to be the Guardian of his daughter, Afsana Sikdar, which was necessitated on account of certain matrimonial disputes arising between the petitioner and the respondent No. 2. The said order holding the field, the allegation as leveled against the petitioner in the FIR dated 18.10.2013, in the considered view of this Court, would not be sustainable.

11. At this stage, it is to be noticed that the respondent No. 2, herein, had assailed the Guardianship Certificate issued in favour of the petitioner in respect of their daughter, Afsana Sikdar, by way of instituting First Appeal No. 18/2014 before this Court. However, the said First Appeal was dismissed for non-prosecution vide order dated 27.02.2018 and it is stated by the learned counsel for the petitioner that the said appeal has not been since restored to its file.

12. In view of the above position, the allegations leveled against the petitioner, herein, in the FIR dated 18.10.2013, of having kidnapped his own daughter is found to be not sustainable, more so, when the petitioner continues to be the guardian of his daughter, Afsana Sikdar, after being so appointed by the District Judge, Barpeta. Accordingly, this Court is of the considered view that prejudice would be caused to the petitioner, in the event, further investigation is

directed to be carried out in connection with the said FIR dated 18.10.2013.

13. Accordingly, the FIR dated 18.10.2013, for the reasons assigned, hereinabove, stands quashed. The present criminal petition accordingly, stands allowed.

JUDGE

Comparing Assistant