GAHC010201502026

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

Case No. : Crl.Pet./1241/2023

ARABJAN NESSA AND ANR
W/O MUBASIR ALI
R/O VILL- BORDOLOI PATHAR
P.S. LANKA
DIST. HOJAI
ASSAM

2: DILWAR HUSSAIN
S/O RAHMAT ALI
R/O VILL- BORDOLOI PATHAR

P.S. LANKA
DIST. HOJAI
ASSAM
VERSUS

THE STATE OF ASSAM AND 3 ORS
TO BE REP. BY THE PP
ASSAM

2:OFFICER-IN-CHARGE

LANKA POLICE STATION
P.O. LANKA
PIN-782446.

3:JAHIRA FIRDAUS
D/O MUBASIR ALI
VILL- BORDOLOI PATHAR

P.S.LANKA
ASSAM

PIN-782446 (INFORMANT)

4:SAJAL UDDIN
S/O FAKAR UDDIN
R/O VILL- TINIALI GAON

P.S. LANKA
ASSAM
PIN-782446

Advocate for : MR. N H MAZARBHUIYAN
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND 3 ORS

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

Date : 08.10.2026

Heard Mr. IS Mazarbhuyan, learned Counsel for the petitioners and Mr. DP Goswami, learned Additional Public Prosecutor for the State representing respondent no.1 and 2. Also heard Mr. T. Laskar, learned Counsel for respondent no. 3 i.e. the informant and Mr. S. Nawaz, learned Counsel for respondent no.4.

2. By this application filed under Section 482 of the CrPC, the petitioners have prayed for quashing of the First Information Report being Lanka PS Case No. 389/2023 registered under Section 376 IPC read with Section 9/11 of the Prevention of Child Marriage Act as well as under Section 4 of the POCSO Act. It is noticed that during pendency of the instant application, the charge sheet was submitted by the Investigating Officer and the same has been brought on record by filing an Interlocutory Application before this Court and the petitioner has also challenged the said charge sheet laid in pursuant to the said case.

3. The case of the petitioners are that an FIR was lodged on 01.08.2023 by

the victim herself stating inter alia that two months back from the date of lodging of the ejahar, her mother i.e. petitioner no.1 had forcibly given her in marriage to petitioner no.2 and that after marriage, petitioner no.2 forced physical relationship with her and that he also had threatened her with a machete. It is noticed that the informant was minor, when she was given in marriage by petitioner no.1 to petitioner no.2.

4. The learned Counsel for the petitioners submits that before the said FIR, there was another FIR lodged on 16.05.2023 by petitioner no.1 stating inter alia that her daughter being minor was studying in school and the respondent no.4 had kidnapped her minor daughter about one year back. She stated that she was not well and she was under treatment and that later she got the information that respondent no.4 had confined her daughter in the house of his father. The learned Counsel for the petitioners submits that pursuant to filing of the FIR, the victim was examined by the doctor and the doctor had opined that there is no evidence of forceful sexual intercourse and that the age of the victim as per the report of the radiologist is above 19 years and as such, he submits that the victim was not minor and that the offence under the POCSO Act is not applicable. Accordingly, he submits that the charge sheet arraying the petitioners as accused person is not properly submitted.

5. On the other hand, the learned Additional Public Prosecutor for the State submits that the FIR on the prima facie reading thereof reveals a cognizable offence and as such, quashing is not permissible in such case.

6. Mr. T. Laskar, learned Counsel for respondent no. 3 i.e. the informant also submits that the allegation that her mother had forcefully got her married with the petitioner no.2 and that the petitioner no.2 subjected her to physical and mental harassment is writ large in the FIR, which resulted in the charge sheet

and the same is not amenable for quashing. Similar arguments are also made by Mr. S. Nawaz, learned Counsel for respondent no.4, who states that the informant is married to him and they are living a happy conjugal life.

7. I have heard the Counsels and also have gone through the records.

8. It is a settled position of law that if an FIR or a complaint discloses an offence against the accused person and it reveals a cognizable offence, the same cannot be quashed by the High Court in its inherent jurisdiction. It was held by the Hon'ble Supreme Court in so many cases one of them being the leading case i.e. ***State of Haryana Vs. Bhajan Lal*** **,**reported in **1992 Supp (1) SCC 335,** wherein it was held that the High Court in its inherent power under Section 482 of the CrPC, which is now Section 528 of the BNSS can quash cases, where no offence is made out in the same. It has been held that where the allegations made in the First Information Report or complaint taken at their face value or accepted in their entirety do not prima facie constitute any offence or make out the case against the accused, the same can be quashed by the High Court in its inherent jurisdiction. In the instant case, it is seen that in the FIR dated 01.08.2023, the informant had clearly stated that her mother i.e. petitioner no.1 forcibly got her married with petitioner no.2 and that petitioner no.2 had subjected her to physical relationship and in the said FIR, the victim herself had stated to be of 17 years of age. The allegation both under Prohibition of Child Marriage Act, the POCSO Act or Section 376 of the IPC are writ large in the FIR. The mother lodging another FIR three months back from the instant FIR alleging that her daughter was kidnapped by respondent no.4 will also have no effect on the present case, which is for quashing of the instant FIR lodged on 01.08.2023.

9. It is also a settled position of law that the report of the doctor is not

conclusive in such cases, as it is in the nature of an opinion and it also depends on what date, the victim was examined. In the said charge sheet, it is also stated that the witnesses were examined and their statements were recorded under Section 161 CrPC and the victim statement was also recorded under Section 164 CrPC, wherein she had implicated the petitioners with the said offence.

10. As such, this Court does not deem it fit to quash the present FIR being Lanka PS Case No. 389/2023 as well as the charge sheet submitted in pursuance thereof vide charge sheet no. 443/2023 dated 31.12.2023. As such, the present case is dismissed and disposed of.

JUDGE

Comparing Assistant