

GAHC010000122025



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

Case No. : Crl.Pet./2/2025

MD KUTUBUDDIN AHMED AND 3 ORS
S/O LATE SIRAJUDDIN AHMED,
RESIDENT OF HOUSE NO. 62, P D CHALIHA PATH, PS LATASIL, DIST
KAMRUP M GUWAHATI ASSAM 781003

2: ANOWARA BEGUM
W/O MD. KUTUBUDDIN AHMED

RESIDENT OF HOUSE NO. 62
P D CHALIHA PATH
PS LATASIL
DIST KAMRUP M GUWAHATI ASSAM 781003

3: MD. WACHIR AHMED

S/O MD. KUTUBUDDIN AHMED

RESIDENT OF HOUSE NO. 62
P D CHALIHA PATH
PS LATASIL
DIST KAMRUP M GUWAHATI ASSAM 781003

4: ARFAN ALI
S/O LATE USMAN ALI

RESIDENT OF HOUSE NO. 95
P D CHALIHA PATH
PS LATASIL
DIST KAMRUP M GUWAHATI ASSAM 78100

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY PP ASSAM

2:NEKIBUL HUSSAIN CHOUDHURY
S/O LATE AHMED HUSSAIN

RESIDENT OF HOUSE NO. 63
P D CHALIHA PATH
PS LATASIL
DIST KAMRUP M GUWAHATI ASSAM 78100

Advocate for the Petitioner : MR B CHOUDHURY, MR K P PATHAK

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

23.01.2025

Heard Mr. A. Tiwari, learned counsel for the petitioners and also heard Mr. B. Sharma, learned Additional Public Prosecutor, Assam, appearing for the State respondent No.1.

This application under Section 482, read with Section 397 and Section 401 of the Code of Criminal Procedure, 1973, is preferred by four petitioners, namely, Md. Kutubuddin Ahmed, Anowara Begum, Md. Wachir Ahmed and Arfan Ali, for quashing the C.R. Case No.393/2023, pending in the Court of learned Judicial Magistrate First Class, Kamrup(M), Assam and also for quashing the order dated 09.04.2024 passed by the learned Judicial Magistrate First Class, Kamrup(M), in the aforementioned case.

It is to be noted here that vide impugned order dated 09.04.2024, the learned Trial Court had taken cognizance of the offence under Section 294/323/34 of the IPC against the present petitioners and issued process.

Perused the petition and the documents placed on record.

Mr. Tiwari, learned counsel for the petitioners submits that earlier the respondent No.2 herein had instituted one case, being PRC Case No.2355/2022 upon the same subject matter and the said case has been withdrawn by the Government under Section 321(a) Cr.P.C. and after withdrawal of the said case, upon the same subject matter, the respondent No.2 herein again instituted the present proceeding, being C.R. Case No.393/2023 and this proceeding is not maintainable and therefore, Mr. Tiwari had contended to allow the petition.

The submission of Mr. Tiwari needs further consideration.

At this stage, issue notice to the respondents, returnable within 4(four) weeks.

Step be taken by registered post with A/D and also by usual process upon respondent No.2, within a week from today.

No formal notice is required to be issued in respect of respondent No.1, as Mr. Sharma, learned Additional P.P. has entered appearance and received notice. However, extra requisite copy of the petition be served upon him during the course of the day.

Registry shall call for the PRC Case No.2355/2022 from the Court of learned Judicial Magistrate First Class, Kamrup(M).

List the matter after 4(four) weeks.

Till returnable date, the NBW issued against the petitioners shall be kept in abeyance.

Sd/- Robin Phukan
JUDGE

Comparing Assistant