

GAHC010022582016



2026:GAU-AS:1857

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

Case No. : Crl.Pet./608/2016

DR DHANI RAM BARUAH HEART INSTITUTE AND RESEARCH CENTRE and
ANR.
SONAPUR-782402
DIST- KAMRUP
ASSAM

2: DR. DHANI RAM BARUAH
S/O LT. ANANDI RAM BARUAH
R/O DR. BARUAH HEART CITY AND CITY OF HUMAN GENOME
SONAPUR-782402
DIST- KAMRUP ASSAM
VERSUS

GUPTA HARDWARE PRIVATE LIMITED and 3 ORS.
DR. RP ROAD
DISPUR
POST OFFICE AND P.S. DISPUR
GHY-6
DIST- KAMRUP METRO
ASSAM
COMPLAINANT THROUGH ITS POWER OF ATTORNEY HOLDER CUM
MARKETING MANAGER SRI MANAB LAHKAR

2:RAJENDRA KUMAR GUPTA
S/O LT. RAM KUMAR GUPTA
DIRECTOR OF GUPTA HARDWARE PVT. LTD.
DR. RP ROAD
DISPUR
P.O. and P.S. DISPUR
GHY-6
DIST- KAMRUP METRO
ASSAM

3:THE STATE OF ASSAM
THROUGH THE LEARNED P.P.

4:CHANDRA KANTA
S/O LT. PRITHU RAM KALITA
R/O NAHARANI PATH
HATIGAON
DISPUR
GHY-6
DIST- KAMRUP METRO
ASSAM

B E F O R E
HON'BLE MRS. JUSTICE SHAMIMA JAHAN

For the Petitioners : Mr. T.N. Sreenivasan, Adv.
For the Respondents : Mr. Ms. P. Gupta, Adv.
: Mr. M.J. Hazarika, Adv.
: Mr. M.P. Goswami, APP, Assam.

JUDGMENT & ORDER (ORAL)

10.02.2026

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Heard Mr. T.N. Sreenivasan, learned counsel for the petitioners. Also heard Ms. P. Gupta, learned counsel and Mr. M.J. Hazarika, learned counsel for the respondent Nos. 1 & 2 and Mr. M.P. Goswami, learned Addl. Public Prosecutor for the State of Assam.

2. By this petition filed under Section 482 read with Section 397 and 401 of the Cr.PC, the petitioners have prayed for quashing of the proceedings of the complaint case being Complaint Case No. 492C/2013 registered under Section 138 of the Negotiable Instruments Act pending before the Court of Judicial

Magistrate First Class, Kamrup (Metro) at Guwahati, Assam. The petitioners have also challenged the Order dated 25.04.2016, by which the learned Court of Judicial Magistrate First Class has registered the petition of the petitioners, wherein they prayed for dropping of the proceedings of the complaint case on the ground that payment have already been made to the complainant.

3. The complaint dated 26.02.2013 lodged by the respondent Nos. 1 & 2 against the petitioners reflects that the petitioners owes around Rs. 10 Lakhs to the respondent Nos. 1 & 2 and in discharged of the said debts, the petitioners issued account payee Cheque bearing Cheque No. 527350 dated 14.12.2012 for Rs. 1 Lakh which was dishonoured by the drawee Bank, i.e., Axis Bank Limited for the reason "Funds Insufficient" and returned the aforesaid Cheque along with the Cheque return Memo dated 15.12.2012. Thereafter, the complainant made a demand for payment of the aforesaid amount of Rs. 5 Lakhs by sending a demand notice on 10.01.2013 which was received by the petitioners but the petitioners failed to make the payment of the Cheque within the stipulated 15 (fifteen) days period, but had sent one reply through their counsel stating that they have received the aforesaid notice and due to temporary financial crisis, they could not arrange the funds and since the petitioners could not make the payments, the respondents instituted a case under Section 138 of the N.I Act read with Section 141 of the said Act and the respondents have also lodged the present complaint.

4. Mr. T.N. Sreenivasan, learned counsel for the petitioners submits that he has filed an application before the Court of SDJM No. 2, Kamrup at Guwahati on 05.08.2014, showing *inter alia* that the petitioners have made payments to the respondents to the extent of Rs. 10,78,485/- in connection with three different

cases and he has narrated the Cheque number, the date on which it was issued as well as the cash receipt that he had allegedly given to the respondents. To substantiate his arguments, he has also placed the copy of the Pass Book, wherein it is shown that the Cheque was drawn in favour of Gupta Hardware, i.e., the respondents on 28.02.2013 by Cheque No. 54627, an amount of Rs. 2 Lakhs was given to the respondents. Thereafter, he has also annexed the copy of the Pass Book, wherein it is shown that on 13.07.2012, he had issued an amount of Rs. 1 Lakh to the respondents by Cheque No. 77558. He has also annexed the receipt of the cash amount given to the tune of Rs. 1 Lakh on 16.09.2013, wherein a seal is seen on Gupta Hardware, i.e., the respondents. Similar is with another Rs. 1 Lakh given to Gupta Hardware on 21.09.2013 as well as Rs. 5,78,485/- in the name of Gupta Hardware and as such, he prays that the entire amount is being paid back to the respondents and accordingly have prayed for quashing of the instant complaint petition.

5. Ms. Gupta, learned counsel for the respondent Nos. 1 & 2 however submits that the said Cheque, as well as the cash amount was not in connection with the transaction that is mentioned in the complaint petition. Those payments, according to her, is in connection with some other transactions. She has also filed an objection petition before the Court of Judicial Magistrate First Class, Kamrup (Metro), wherein it is clearly stated that the petitioners have not settled the account till date against the Cheque in question against which the petitioners had also filed a reply stating *inter alia* that there were three cases against him for three charges and has further stated that the appearance of the accused is not essential in the instant case because of the fact that he, from the very beginning has submitted that he would pay the amount of the Cheque to the complainant and has accordingly paid and that there are no more

admissible dues.

6. Mr. T.N. Sreenivasan, learned counsel for the petitioners also stated in the said petition that the Cheque amount was in connection with the transaction mentioned in the complaint petition, which is however disputed by Ms. Gupta, learned counsel for the respondent Nos. 1 & 2.

7. Since it is disputed as to the amount of money paid to the respondents and that the same is in connection with the transaction in question as mentioned in the complaint petition, this Court does not deem it fit to consider quashing of the present complaint petition. Further, it is directed that the parties may approach the Trial Court and the Trial Court would consider according to law including the fact as to whether any valid compromise has been reached between the parties as far as the amount in issue is concerned.

8. The Criminal Petition is disposed of.

JUDGE

Comparing Assistant