

GAHC010080472024



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

Case No. : Crl.Pet./466/2024

TOSHESWAR KALITA
S/O LATE NAGEN KALITA
R/O VILL- MORONGIAL GAON
P.O. MORONGIAL, MOUZA- SINGIA
POTONI, P.S. NAGAON SADAR, NAGAON, DIST.

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP, ASSAM

2:SHRI JITENDRA SAIKIA
S/O LATE BHOLARAM SAIKIA
R/O VILL- BHOTAO GAON
MOUZA- NIZ SAHAR

P.S. NAGAON SADAR

P.O. NAGAON
DIST. NAGAON
ASSAM
PIN-78200

Advocate for the Petitioner : MR S KHOUND

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

23.04.2024

Heard Mr. S. Khound, learned counsel for the petitioner and also heard Ms. N. Das, learned Additional Public Prosecutor, Assam, appearing for the State respondent No.1.

In this petition, under Section 482 Cr.P.C., the petitioner, namely, Tosheswar Kalita, has challenged the correctness or otherwise of the order dated 17.02.2024 passed by the learned Additional Chief Judicial Magistrate, Nagaon, in N.I. Case No.128/2023. It is to be noted here that vide impugned order dated 17.02.2024, the learned Court below has allowed the petitioner to withdraw the case, but no liberty was granted to approach the Court again by filing appropriate petition.

Mr. Khound, learned counsel for the petitioner submits that the petition No.880/2024 was filed before the learned Court below on 17.02.2024 for according permission to withdraw the complaint case, being N.I. Case No.128/2023 pending before the Court of learned Chief Judicial Magistrate, Nagaon with a liberty to file fresh N.I. case before the learned Court below. But the learned Court below while allowing the prayer to withdraw the case, has passed no order in respect of granting liberty to approach the Court again by filing another complaint.

Perused the petition and the documents placed on record.

Let notice be issued, returnable within 4(four) weeks.

Steps be taken upon the respondent No.2 by registered post with A/D and also by usual process, within 2(two) working days from today.

No formal notice is required to be issued to respondent No.1 since Ms. N. Das, learned Additional P.P. has entered appearance and received notice. However, extra requisite copy of the petition be furnished to Ms. Das, during the course of the day.

Registry shall call for the scanned copy of the record from the learned Court below.

List the matter after 4(four) weeks.

Sd/- *Robin Phukan*
JUDGE

Comparing Assistant