

GAHC010166012021



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

Case No. : Crl.Pet./590/2021

NAYAN MONI DAS
S/O SRI CHABI RAM DAS
R/O NARENGI HOUSING COLONY
SEUJ NAGAR, UNDER NOONMATI POLICE STATION, GUWAHATI IN THE
DISTRICT OF KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE LD. PP, ASSAM

Advocate for the Petitioner : MR. M K DAS

Advocate for the Respondent : PP, ASSAM

:: BEFORE ::

HON'BLE MRS. JUSTICE RUMI KUMARI PHUKAN

ORDER

26.10.2021

By filing this petition under Section 482 CrPC, the petitioner has prayed for

setting aside/quashing of the order dated 15.03.2021 passed by the learned Judicial Magistrate 1st Class, Kamrup (M) at Guwahati in connection with PRC Case No.568/2019.

The petitioner herein is facing the trial before the court of learned JMFC, Kamrup (M) pertaining to PRC No.568/2019 under Section 498(A) IPC. During the course of the trial while the examination-in-chief of the informant was going on and the case was adjourned reserving cross-examination and further examination, on the prayer of the informant. An application under Section 91 CrPC was filed by the informant before the trial court for summoning the relevant witnesses pertaining to village proceeding held on 24.11.2016. The learned trial court vide order 15.03.2021 allowed the prayer.

Challenging the aforesaid order, the petitioner has approached this Court with the instant petition Section 482 CrPC wherein it is contended *inter alia* that the learned trial court has wrongfully exercised its jurisdiction under Section 91 of CrPC, inasmuch as the said proceeding was conducted after conclusion of the investigation and even after filing of the *charge sheet*. So the petitioner has prayed for quashing and setting aside of the impugned order dated 15.03.2021 stating the same to be abuse of process of law.

I have considered the submission of the learned counsel for the petitioner and also the learned counsel appearing for the State.

Let Notice be served to the counsel for the State respondent and also implead the informant as party respondent no.2 by registered post with A/D and usual process, returnable by 4(four) weeks.

List after four weeks.

Till the returnable date, execution of the aforesaid order dated 15.03.2021 is

hereby stayed. However, the learned trial court is at liberty to proceed with further hearing of the case.

JUDGE

Comparing Assistant