

GAHC010192222024



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

Case No. : Tr.P.(C)./87/2024

ELIMA KHATUN AND 2 ORS
D/O- ABUL HUSSAIN,
RESIDENT OF VILLAGE- BAMUNITILA,
P.O.- DHANTOLA BAZAR,
P.S. AND DIST.- BONGAIGAON, ASSAM.

2: MD. ABUL HUSSAIN
S/O- LATE SAPIAL HAQUE @ SAFIUL SK.
RESIDENT OF VILLAGE- BAMUNITILA
P.O.- DHANTOLA BAZAR
P.S. AND DIST.- BONGAIGAON
ASSAM.

3: MOSSTT. KHANISA BIBI
W/O MD. ABUL HUSSAIN
RESIDENT OF VILLAGE- BAMUNITILA
P.O.- DHANTOLA BAZAR
P.S. AND DIST.- BONGAIGAON
ASSAM

VERSUS

MD. MUSLIM UDDIN MIRDA
S/O MD. AJIJUR RAHMAN MIRDA,
R/O- VILL. KAMALACHARA, CHECHAPANI,
P.O. MAGURMARI,
P.S. AND DIST.- KOKRAJHAR, BTR, ASSAM,
PIN- 783370.

Advocate for the Petitioner : MR. M I HUSSAIN, N. UDDIN, MS. P AHMED

Advocate for the Respondent : ,

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

25.09.2024

Heard Mr. M.I. Hussain, learned counsel for the petitioners.

2. In this petition, under Sections 24/151 of the C.P.C., the petitioners have prayed for transferring the Misc. (G) Case No. 04/2024, under Section 7 of the Guardian and Wards Act, pending before the learned District Judge, Kokrajhar to the court of learned District Judge, Bongaigaon.

3. Mr. Hussain, learned counsel for the petitioners submits that the sole respondent is the husband of the petitioner No. 1 and the respondent had killed his son for which one FIR was lodged with the Bidyapur Police Outpost, upon which Bongaigaon P.S. Case No. 47/2023, under Sections 302/201 of the IPC has been registered. Thereafter, the investigation was carried out and after completion of the investigation, the charge sheet was submitted against the respondent, under Sections 302/201 of the IPC. Thereafter, the respondent had instituted one Misc. (G) Case No. 04/2024, under Section 7 of the Guardian and Wards Act, seeking custody of his another son, who is presently residing with the petitioners. Mr. Hussain further submits that since institution of the criminal proceeding the respondent has been continuously threatening the present petitioner and as such, it is not possible on her part to attend the court at Kokrajhar. Therefore, Mr. Hussain has contended that Misc. (G) Case No. 04/2024, under Section 7 of the Guardian and Wards Act has to be transferred to the court of learned District Judge, Bongaigaon, where the petitioner is presently residing with her parents.

4. The submission of Mr. Hussain, learned counsel for the petitioners. need further consideration.
5. At this stage, let notice be issued to the respondent, within a week from today, returnable in 4 weeks, by registered post with A/D and also by usual process.
6. List the matter after 4 (four) weeks.
7. Till returnable date, further proceeding of Misc. (G) Case No. 04/2024, under Section 7 of the Guardian and Wards Act, pending before the learned District Judge, Kokrajhar, stands **stayed**.

JUDGE

Comparing Assistant