

GAHC010207702024



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

Case No. : Crl.Pet./1232/2024

ABDUL HASHIM AND 7 ORS
S/O MOZIR UDDIN
R/O VILL- ALOMKHANI, P.O. AND P.S. NILAMBAZAR, DIST. KARIMGANJ,
PIN-788722

2: ABDUL HAMID
S/O MOZIR UDDIN
R/O VILL- ALOMKHANI
P.O. AND P.S. NILAMBAZAR
DIST. KARIMGANJ
PIN-788722

3: ABDUL HALIM
S/O MOZIR UDDIN
R/O VILL- ALOMKHANI
P.O. AND P.S. NILAMBAZAR
DIST. KARIMGANJ
PIN-788722

4: ABDUL HAKIM
S/O MOZIR UDDIN
R/O VILL- ALOMKHANI
P.O. AND P.S. NILAMBAZAR
DIST. KARIMGANJ
PIN-788722

5: MOZIR UDDIN
S/O LATE FORMAN ALI
R/O VILL- ALOMKHANI
P.O. AND P.S. NILAMBAZAR
DIST. KARIMGANJ
PIN-788722

6: RENU BEGUM

W/O MOJIR UDDIN
R/O VILL- ALOMKHANI
P.O. AND P.S. NILAMBAZAR
DIST. KARIMGANJ
PIN-788722

7: AYESHA SULTANA @ AYESA BEGUM
W/O ABDUL HAMID
R/O VILL- ALOMKHANI
P.O. AND P.S. NILAMBAZAR
DIST. KARIMGANJ
PIN-788722

8: KHALIDA BEGUM @ KALEDA BEGUM
W/O ABDUL HALIM
R/O VILL- ALOMKHANI
P.O. AND P.S. NILAMBAZAR
DIST. KARIMGANJ
PIN-78872

VERSUS

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

2:SAJIDA JESMIN
D/O FAIZUL HAQUE
PERMANENT RESIDENT OF JUHIRKANDI
P.O. JODUTILLA
P.S. KARIMGANJ
DIST. KARIMGANJ
ASSAM
PIN- 78872

Advocate for the Petitioner : MR. I H LASKAR, MR. P K DEKA,MR. P DAIMARY,MR. R. KARIM,MS. N M LONGKENG,MR J H LASKAR

Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

28.11.2024

Heard Mr P K Deka, learned counsel for the petitioner Nos. 1, 2, 3, 4, 5, 6, 7 and 8,

who have filed this application under Section 528 of the BNSS, 2023, with prayer for quashing the impugned proceeding, pending in the Court of learned JMFC-II, Karimganj, registered as CR Case No. 553/2024, under Sections 498-A/326/34 of the Indian Penal Code, 1860.

2. It is submitted that a similar FIR was lodged on 25.07.2022, with the same allegations and this FIR was not registered by the Police. Thereafter, the petitioner No. 1 filed a petition for restitution of conjugal rights and notice was issued and served on the respondent No. 2, i.e., the wife of petitioner No. 1, on 26.03.2024. Immediately after service of notice on the respondent No. 2, this present complaint case has been brought up against the petitioner.

3. It is apt to mention at this juncture that respondent No. 2 through her complaint petition and her statement under Section 200 CrPC, concealed the factum that a petition for restitution of conjugal rights has been filed by the petitioner No. 1, who was desirous to restart their conjugal life, as the respondent No. 2 is staying in her parental home since the year 2022.

4. It is also submitted on behalf of the petitioners that the respondent No. 2 has concealed the factum that earlier an FIR was lodged by the respondent No. 2, which was not registered by the Police. After two years, the respondent No. 2 has filed this case stating that she was contemplating reconciliation between her and her husband.

5. It is also highlighted by the learned counsel for the petitioners that already a

petition for restitution of conjugal rights have been filed and this case was not required to be brought up as the petitioner has come for reconciliation.

6. Heard Mr D Das, learned Additional Public Prosecutor, for the respondent No. 1/State of Assam.

7. Learned Additional Public Prosecutor has accepted notice on behalf of respondent No. 1, and thus, no formal notice is required to be issued. However, sufficient copies be furnished to the respondent No. 1, during the course of the day.

8. Petitioner to take steps to issue notice to the respondent No. 2, through registered post with A/D as well as by usual process, returnable on 19.12.2024.

9. It appears that there are sufficient grounds to stay the proceeding of CR Case No. 553/2024, at least till the next date of listing.

10. Call for the scanned copies of the Trial Court Record.

11. Meanwhile, further proceeding of CR Case No. 553/2024, is stayed till the next date of listing.

12. List accordingly.

JUDGE

Comparing Assistant