

GAHC010227262024



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

Case No. : Crl.Pet./1319/2024

MOIMUN NESSA AND 6 ORS
D/O LATE INTAJ ALI, R/O VILL- BHELUGURI, P.S.-DABOKA, DIST- HOJAI
(ASSAM)

2: ASAB ALI @ ASSAB ALI
S/O LATE INTAJ ALI
R/O VILL- BHELUGURI
P.S.-DABOKA
DIST- HOJAI (ASSAM)

3: ISUB ALI @ ESUB ALI
S/O LATE INTAJ ALI
R/O VILL- BHELUGURI
P.S.-DABOKA
DIST- HOJAI (ASSAM)

4: SAYAR ALI
S/O LATE INTAJ ALI
R/O VILL- BHELUGURI
P.S.-DABOKA
DIST- HOJAI (ASSAM)

5: RUSNA BEGUM @ ROSHNA BEGUM
D/O LATE INTAJ ALI
R/O VILL- BHELUGURI
P.S.-DABOKA
DIST- HOJAI (ASSAM)

6: SURTUN NESSA @ SUROTUN NESSA @ SURTUN BIBI
D/O LATE INTAJ ALI
R/O VILL- BHELUGURI
P.S.-DABOKA
DIST- HOJAI (ASSAM)

7: INUS ALI @ INNUS ALI
S/O LATE INTAJ ALI
R/O VILL- BHELUGURI
P.S.-DABOKA
DIST- HOJAI (ASSAM)

VERSUS

STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:HUSSAIN AHMED
S/O SIDDEK ALI @ SIDDIQUE ALI
R/O VILL- BHELUGURI PATHER
P.S.-DABOKA
DIST- HOJAI (ASSAM)

Advocate for the Petitioner : MR A W AMAN, MD A RAHMAN,MR. SURAJIT DAS,MS
SURAYA RAHMAN,MR SARFRAZ NAWAZ

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 28.11.2024

Heard Mr. S. Nawaz, learned counsel for the petitioners. Also heard Mr. R.J. Baruah, learned Additional Public Prosecutor, appearing for the State respondent.

This is a petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of the proceedings in C.R. Case No.819/2023 pending in the Court of the learned Judicial Magistrate First Class, Hojai, Sankardev Nagar.

Issue notice, returnable in 4 (four) weeks.

No formal notice is required to be issued to the respondent No.1 as Additional Public Prosecutor has already entered appearance. However, extra requisite copies of the petition may be served during the course of the day.

Learned counsel for the petitioner shall take steps for service of notice upon the respondent No.2

by registered post with A/D as well as by usual process within 7 (seven) days.

Call for the scanned copy of the records.

Learned counsel for the petitioner has submitted that land dispute is going on between the parties and only out of the land dispute, the compliant case was lodged by the respondent. After filing of the complaint by the respondents, the petitioner and his family member initiated a Title Suit. The respondents side also filed written statement in the said case. During the pendency of the title suit, the initial deposition was recorded on 11.01.2024 and the cognizance was accordingly taken by the trial Court on 22.02.2024. But on bare perusal of the complainant as well as the statement recorded under Section 200 Cr.P.C., it reveals that no case is established against the present petitioner under Section 447/294/323/506/34 IPC. But without having any materials the cognizance was taken against the present petitioner.

Accordingly, learned counsel for the petitioner prays for stay of the proceeding in connection with three other proceeding in C.R. Case No.819/2023 pending before the learned JMFC, Hojai, Sankardev Nagar.

Learned Additional Public Prosecutor has submitted in this regard that the complaint not only brought the allegation of assault and abusing with filthy languages but there are other allegation of fraudulent mutation etc. are brought by the respondent in the complainant petition. Accordingly, he submits that only notice may be issued to the respondent at this stage.

Considering the submissions made by the learned for both sides as well as the materials in the case record, the further proceeding in C.R. Case No.819/2023 under Sections 447/294/323/506/34 pending in the Court of the learned Judicial Magistrate First Class, Hojai, Sankardev Nagar be stayed till next date of listing.

List this matter after 4 (four) weeks.

JUDGE

Comparing Assistant