

GAHC010262412023



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

Case No. : Crl.Pet./1232/2023

IKBAL HUSSAIN BARBHUIYA
S/O ATABUR RAHMAN BARBHUIYA
R/O BERENGA PART-II
P.O. BEREANGA, P.S. SILCHAR
DIST. CACHAR, ASSAM
PRESENTLY WORKING AT REGIMENT NO. 95956, ASSAM RIFLES,
TAMENGLONG, MANIPUR, C/O 99 APO, PIN-932044

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2: YESMINA BEGUM
D/O ABDUL HANNAN RAJBARBHUIYA
R/O SATGAON MASJID PATH

HOUSE NO. 99
P.S. SATGAON GUWAHATI
DIST. KAMRUP (M)
ASSAM
PIN-78102

Advocate for the Petitioner : MR. R MAJUMDAR

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 23.11.2023

Heard Mr. JUNM Laskar, learned counsel for the petitioner. Also heard Ms. S. H. Bora, learned Additional Public Prosecutor for the State respondent.

This application under section 482 of the Code of Criminal Procedure, 1973, has been filed by the petitioner, namely, Ikbal Hussain Barbhuiya praying for quashing of the charge-sheet No. 03/2021 dated 30.01.2021. On the basis of which PRC Case No. 2396/2021 was registered and same is pending in the Court of learned Additional Chief Judicial Magistrate, Kamrup.

Learned counsel for the petitioner has submitted that respondent no.2 was the wife of the present petitioner, however, matrimonial dispute occurred between them and thereafter, they separated with each other. When the matrimonial dispute occurred between the petitioner and respondent no. 2, the respondent no.2 lodged an FIR on 11.11.2020 against the present petitioner alleging therein that the respondent no.2 was subjected to cruelty by the present petitioner and on the basis of the said FIR, Satgaon P. S. Case No. 185/2020 under section 498A/506 of the IPC was registered.

However, thereafter, both the parties arrived at an amicable settlement amongst each other and to that effect a deed of agreement was also entered into between them on 20.01.2022 and in pursuant to the said deed of agreement the petitioner has also paid an one time settlement of Rs.7,50,000/- to the respondent no. 2.

However, in the meanwhile, the investigation in the FIR which was lodged by the respondent no.2 prior to arriving at settlement between the present petitioner continued and ultimately the charge-sheet was laid against the present petitioner under section 498A/506.

Learned counsel for the petitioner has submitted that as the dispute between the petitioner and respondent no. 2 who was erstwhile wife of the present petitioner has already been amicably settled. It would be futile to pursue the criminal prosecution which ensued on the basis of the FIR which was filed by the respondent no. 2 prior to their reaching settlement in between each other.

Learned counsel for the petitioner submits that it would be abuse of the process of the Court to continue with the criminal prosecution after a settlement have been reached between the parties in a matrimonial dispute.

Issue notice to the respondents.

As learned Additional Public Prosecutor has appeared for the respondent no. 1, no formal notice need to be issue to the respondent no.1.

As regards respondent no.2 is concerned, the petitioner shall take steps for service of notices to the respondent no.2 by registered post with A/D within three days from the date of receipt of this order, returnable within four week.

Let this matter be listed after four weeks.

However, in the meanwhile, as from the submissions made by learned counsel for the petitioner as well as from the documents annexed along with criminal petition, it appears that the dispute between the respondent no.2 and the present petitioner has already been amicably settled after lodging of the FIR by respondent no.2, the further proceeding of PRC Case No. 2396/2021 is

hereby stayed till the returnable date.

JUDGE

Comparing Assistant