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

Case No. : Crl.Pet./1568/2024

MD. NURUDDIN AHMED
S/O LATE TARIFUDDIN AHMED
RESIDENT OF CHENGA PS TARABARI, DIST BARPETA ASSAM

VERSUS

THE STATE OF ASSAM AND ANR.
REPRESENTED BY PP ASSAM

2:SRI KAMAL KISHORE SEN
S/O LATE KALIPADA SEN
RESIDENT OF SHREENAGAR BYE LANE NO. 7
PO DISPUR GUWAHATI 05
DIST KAMRUP M ASSA

Advocate for the Petitioner : MR. T MOHAMMAD, MR. M SARMA,MR. M K CHOUDHURY

Advocate for the Respondent : PP, ASSAM,

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 20.12.2024

Heard Mr. M. K. Choudhury, learned Senior Counsel assisted by Mr. T. Mohammad, learned counsel for the petitioner. Also heard Ms. S. H. Bora, learned Additional Public Prosecutor for the State respondent No. 1.

This is an application under Section 528 of BNSS, 2023 praying for quashing of C.R. Case No. 207/2023, pending before the Court of learned Judicial Magistrate First Class, Kamrup (M), Guwahati as well as for setting aside of the impugned orders dated 19.07.2024 & 18.10.2024, whereby the BWA and NBWA were issued against the present petitioner.

Issue notice to the respondents, returnable within 4 (four) weeks.

Since Ms. Bora, learned Additional Public Prosecutor, has entered appearance and accepted notice on behalf of State respondent No. 1, no formal notice is required to be issued to the said respondent. However, she shall be provided with requisite extra-copy of the petition, if not already furnished, during the course of the day.

Petitioner side to take steps for service of notice upon respondent No. 2 by registered post with A/D as well as through usual process within a week from today.

Heard on the interim prayer.

It is submitted by Mr. Choudhury, learned Senior Counsel for the petitioner, that the complaint has been lodged against the present petitioner with some false and concocted story wherein the respondent No. 2 has no legal right over the disputed land as it was sold by him to other person and the present petitioner executed the Agreement for Sale at the strength of the power of attorney given by the actual owner whose name is also reflected in the copy of the Jamabandi. He further submitted that earlier the case was lodged by the mother of the present respondent No. 2 and when they failed to obtain any injunction order in favour of them, the present F.I.R. has been lodged with some concocted story. However, the actual owner earlier lodged an F.I.R. against the respondent and her mother on 19.01.2019 and thereafter only the present F.I.R. was lodged. It is submitted that it is a purely civil dispute and a civil case is already pending and only to harass the present petitioner, the present F.I.R. has been lodged as they failed to obtain any injunction order. Further he submitted that from the order dated 19.07.2024, it reflects that the summons were issued through Registered A/D and on the basis of the track consignment report, the BWA and subsequent NBWA was issued against the present petitioner, though he never received any summon neither from the police nor through the registered A/D.

Considering the entire submission made by the learned counsel for the petitioner and also considering the attending facts and circumstances on record, further proceeding in C.R. Case No. 207/2023, pending before the Court of learned Judicial Magistrate First Class, Kamrup (M), Guwahati, shall remain stayed/suspended till next date of listing and the NBWA/BWA issued against the

present petitioner stands recalled.

List the matter after 4 (four) weeks.

JUDGE

Comparing Assistant