

GAHC010205152016



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

Case No. : Tr.P.(Crl.) 8/2016

1:SMTI. JOYMATI SHIL and 2 ORS.
D/O LT. SANJAY SHILL W/O SRI KESHAB DAS VILL- SRIPURIA PATHAR
TINSUKIA, P.S. AND DIST. TINSUKIA, ASSAM.

2: SRI LAKHAN SHILL
S/O SRIKRISHNA SHILL R/O GAON- JORGURI P.O. JORAGURI
P.S. DERGAON DIST. GOLAGHAT
ASSAM.

3: SMTI. ANJALI SHILL
W/O SRIPURIA PATHAR VILL- SRIPURIA PATHAR TINSUKIA
P.S. and DIST. TINSUKIA
ASSAM

VERSUS

1:SMT. CHIPU DAS
W/O SRI SITANATH DAS R/O VILL- 1 NO. , JARAGURI P.S. DERGAON,
DIST.GOLAGHAT, ASSAM.

Advocate for the Petitioner : MR.C SHARMA
Advocate for the Respondent : MR.K R BHAGAWATI

BEFORE
HONOURABLE MR. JUSTICE HITESH KUMAR SARMA

ORDER

Date : 31-05-2018

This petition is filed under Section 407 Cr.PC, seeking transfer of the CR Case No. 170/2015, pending before the learned Judicial Magistrate 1st Class, Golaghat, to the court of learned Chief Judicial Magistrate, Tinsukia.

Heard Ms. N. Modi, learned counsel for the petitioners as well as Ms. B. Sarma, learned counsel for the respondent.

The present petitioners, who are the accused in the aforesaid CR Case No. 170/2015, were the resident within the district of Golaghat at the relevant time of filing of the complaint, and thereafter, petitioner Nos. 1 & 3 have shifted to Tinsukia and the petitioner No. 2 is still residing in Golaghat.

I have perused the petition as well as the annexures furnished therewith.

During the course of hearing, learned counsel for the petitioner has submitted that the instant case is the counterblast of the case filed by the present petitioners against the son of the present respondent and some others. She has submitted that there is threat to the present petitioners that some mischief would be done to them in the event they come to Golaghat in the said case. Learned counsel for the respondent has submitted that there is no threat from the side of the complainant/respondent. The petitioner No. 2 is the resident of Golaghat is an admitted position as appears during the course of hearing. The transfer is sought for the reasons that the petitioner Nos. 1 & 3 are staying at Tinsukia, but in that event, if the case is transfer to the court of Tinsukia, the complainant and the petitioner No. 2 would be required to travel to Tinsukia. On the other hand, the ground on which the transfer is sought for, does not appear be very reasonable as the threat perception has not been clearly explained in the petition before the court.

During the course of hearing, learned counsel for the petitioners further submitted that in the event the case is not transferred, the learned trial court be directed to pass an order for allowing representation of the accused-petitioners under Section 205 Cr.PC, by their learned counsel, if applied for, considering the distance of the place of stay of the petitioner Nos. 1 & 3 from the place of trial of the case.

In view of the above, and considering that there is no good ground for transfer of the case from Golaghat to Tinsukia, the prayer for transfer of the aforesaid CR Case is rejected.

However, as submitted by the learned counsel for the petitioners, as provided under Section 205 Cr.PC, an application may be made before the learned trial court, which the learned trial court will consider on merit on the basis of submission to be made before it by the accused-petitioners.

With the above observations and directions this petition stands disposed of at this admission stage itself.

Interim order passed on 24.6.2016 stands vacated.

JUDGE

Comparing Assistant