

**IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)**

ITANAGAR BENCH

WP(C) 485 (AP) 2015

1. Sri Domin Jini
S/o Sri Baki Jini,
Permanent Resident of Logum Jini,
P.O/P.S. Aalo,
West Siang District,
Arunachal Pradesh, Pin-781001.
2. Sri Meppin Jini
S/o Lt. Mormik Jini,
Permanent resident of Logum Jini,
P.O/P.S. Aalo,
West Siang District,
Arunachal Pradesh, Pin-781001.
3. Sri Kenli Pakam,
S/o Lt. Torken Pakam,
P.O/P.S. Aalo,
West Siang District,
Arunachal Pradesh, Pin-781001.
4. Toli Jini,
S/o Sri Baki Jini,
P.O/P.S. Aalo,
West Siang District,
Arunachal Pradesh, Pin-781001.
5. Nyali Jini
S/o Minya Jini,
P.O/P.S. Aalo,
West Siang District,
Arunachal Pradesh, Pin-781001.
6. Pomar Jini,
S/o Dapo Jini,
P.O/P.S. Aalo,
West Siang District,
Arunachal Pradesh, Pin-781001.
7. Duli Pakam,
S/o Kardo Jini,
P.O/P.S. Aalo,
West Siang District,
Arunachal Pradesh, Pin-781001.

.....*Petitioners.*

By Advocates:

Ms. T. Jini, Advocate

-Versus-

1. State of Arunachal Pradesh (represented by its Chief Secretary to the Govt. of Arunachal Pradesh), Itanagar, Pin-791111, Arunachal Pradesh.
2. Deputy Commissioner, Pangin, Siang District, Arunachal Pradesh.
3. Deputy Commissioner, Aalo, West Siang District, Pin-791001.
4. Circle Officer, Office of the Deputy Commissioner, Pangin, Siang District, Arunachal Pradesh.
5. Shri Taki Dupak, Gram President, Pangin village, P.O/P.S. Pangin, Siang District, Arunachal Pradesh.
6. Shri Tapak Pabin (PI of the Kebang), Office of the Deputy Commissioner, Pangin, Siang District, Arunachal Pradesh.
7. Shri Taki Tamut (PI of the Kebang), Office of the Deputy Commissioner, Pangin, Siang District, Arunachal Pradesh.
8. Tayar Sriyam, Son of Shri Tayam Sriyam, Village-Komsing, P.O/P.S. Pangin, Siang District, Arunachal Pradesh.
9. Kaling Jamoh, S/o Sri Rokom Jamoh, Village-Pangin, P.O/P.S. Pangin, Siang District, Arunachal Pradesh.
10. Tagong Taki, S/o Tanyop Taki, Village-Pangin, P.O/P.S. Pangin, Siang District, Arunachal Pradesh.
11. Solomon Gao, S/o Jongking Gao, Village-Pangin, Siang District, Arunachal Pradesh.

.....**Respondents**

By Advocate:

Mr. Duge Soki, Addl. Sr. Govt. Advocate for respondent Nos. 1 to 4.

::BEFORE::

HON'BLE MR. JUSTICE AJIT BORTHAKUR

Date of hearing : 12.12.2016

Date of Judgment & Order: 12.12.2016

JUDGMENT & ORDER(ORAL)

Heard Ms. T. Jini, learned counsel for the petitioners. Also heard Mr. Duge Soki, learned Addl. Senior Government Advocate, for State Respondents No. 1 to 4.

2]. Following a consensus reached between the parties at Aalo Police Station, West Siang District, to settle an incident that took place between the petitioners and the private respondents on 18.09.2015 in a Kebang (Local Authority). But private respondents filed an application before the respondent No. 2 viz. Deputy Commissioner, Pangin, Siang District for holding the Kebang at Pangin. The Deputy Commissioner, Siang District, Pangin, without territorial jurisdiction, entertained the case and issued the impugned order, dated 21.09.2015, to the respondent No. 3 viz. Deputy Commissioner, West Siang District, Aalo, informing that a Kebang was fixed at Pangin, Siang District, on 24.09.2015 and accordingly, summoned the petitioners, as accused, to attend the Kebang. The petitioners filed an application on 23.09.2015 before the respondent No. 2, challenging his territorial jurisdiction over the place of trial and enquiry that falls within the territory of West Siang District and therefore, they declined to attend the meeting of Kebang on 24.09.2015. The Kebang sat on 24.09.2015 and after deliberation fixed 30.10.2015 for next sitting and accordingly, issued notice to the petitioners. The petitioners again did not attend the Kebang and consequently, the Kebang, without recording any evidence and also without giving opportunity of being heard to them, declared them as accused and penalized them with an amount of Rs. 4,80,000/-. Against it, the petitioners preferred an appeal before the respondent No. 3 viz. Deputy Commissioner, West Siang District, Aalo, for fixing date for fresh Kebang, but the same was dismissed. Several representations were made before the respondents No. 2 & 3, but there was no response. Hence, it is prayed to set aside and quash the Kebang decision dated 30.09.2015 and the Express Letter dated 21.09.2015, issued by the respondent No. 3 viz. Deputy Commissioner, Siang District, Pangin.

3]. Ms. Jini, learned counsel for the petitioners, submits that the incident involved in this proceeding, took place at Maglu Village near Jini Village, West Siang District and the petitioners are residents of the aforesaid District. Therefore, pursuant to the decisions rendered by this Court in the cases of ***Registrar General, Gauhati High Court -vs- Union of India*** reported in **(2013) 4 GLT 1109**, and ***Likha Serbi -vs- State of Arunachal Pradesh*** reported in **(2016) 1 GLT 580** and the separation of Judiciary, the judicial powers both Civil and Criminal vested on the executive, by the North East Frontier (Administration of Justice) Regulation, 1945, has ceased to operate and further, following the creation of 4 (four) new districts out of Siang District namely, West Siang, East Siang, Upper Siang and Siang Districts, the place of occurrence falls within the

West Siang District. According to Ms. Jini, learned counsel, as the accused-petitioners are residents of West Siang District, neither the village authority of Pangin of Siang District nor the Deputy Commissioner, Siang District, Aalo, has jurisdiction to try the case.

4]. Mr. Soki, learned Addl. Senior Government Advocate, Arunachal Pradesh, admits that neither the village authority of Pangin nor the Deputy Commissioner, Siang District, Pangin, apparently has jurisdiction to try the case, in view of the applicability of the provisions of the Code of Criminal Procedure, 1973, following the separation of judiciary in the State of Arunachal Pradesh. Learned Addl. Senior Government Advocate, further submits that no affidavit-in-opposition is intended to be filed on behalf of the respondent-Government due to transparency in legal position.

5]. None appeared on behalf of respondents No. 5 to 11 against whom, the notices were deemed to be served vide this Court's order dated 02.06.2016.

6]. In the case of ***Registrar General, Gauhati High Court*** (supra), a Division Bench of this Court, *inter alia*, held that the North East Frontier (Administration of Justice) Regulation, 1945, applicable in the State of Arunachal Pradesh, will give way to the applicability of the Code of Civil Procedure, 1908, and Code of Criminal Procedure, 1973, to the regularly constituted civil and criminal courts, without in any manner affecting the operation of Article 371A of the Constitution or functioning of village customary or any other courts. The Government of Arunachal Pradesh effected separation of the judiciary from the executive vide notification, dated 16.03.2006, and therefore, the provisions of the Code of Criminal Procedure are applicable to the notified Districts mention therein, where separation of judiciary from the executive has been effected with the establishment of 5 (five) Courts session divisions.

7]. Section 19 of the Assam Frontier (Administration of Justice) Regulation, 1945 provides jurisdiction to the village authorities to try cases involving offences, *inter alia*, assault by the person or persons accused is or are resident within the jurisdiction of a particular village authority. Therefore, in the backdrop of the fact situation of the instant case, the local Kebang at Pangin of Siang District apparently has no jurisdiction to try the case when the accused petitioners are resident of Aalo of West Siang District and also when the place of occurrence is Maglu near Jini village, situated in West Siang District. Likewise,

the respondent No. 2 viz. Deputy Commissioner, Siang District, Pangin, has no jurisdiction to entertain the request, dated 21.08.2015, made by the respondents No. 8, 9, 10 and 11 to try the case.

8]. For the above stated reasons, the impugned Express Letter, dated 21.09.2015, issued by the respondent No. 2 viz. Deputy Commissioner, Siang District, Pangin, and the resultant Kebang decision, dated 30.09.2015, are hereby set aside and quashed, as prayed.

9]. It is directed that the representation, dated 21.08.2015, submitted by the respondents No. 8, 9, 10 and 11 addressed to the Deputy Commissioner, Siang District, Pangin, shall stand transferred to the Deputy Commissioner, West Siang District, Aalo, for disposal, in accordance with law.

10]. Accordingly, this writ petition stands disposed of.

JUDGE

Bibash