

GAHC010272092024



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

**Case No. : Crl.Pet./1556/2024**

JAYDEEP NANDI  
S/O LATE JAYANTA NANDI,  
RESIDENT OF STATION ROAD, KARIMGANJ PO AND PS AND DIST  
KARIMGANJ, ASSAM

VERSUS

STATE OF ASSAM AND ANR.  
REPRESENTED BY PP ASSAM

2:ABHILASHA LAHKAR  
D/O LATE KAMLESWAR LAHKAR

RESIDENT OF BYE LANE NO. 3  
BOC GATE DULAIJAN DIBRUGARH ASSA

**Advocate for the Petitioner** : MR. S P CHOUDHURY, MR. T J MAHANTA,MS. M BORA,MS B  
DEVI

**Advocate for the Respondent** : PP, ASSAM,

**BEFORE  
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

**ORDER**

**Date : 19.12.2024**

- 1.** Heard Mr. T. J. Mahanta, learned Senior counsel assisted My Ms. B. Devi, learned counsel for the petitioner. Also heard Mr. D. P. Goswami, learned Additional Public prosecutor for the State of Assam.
- 2.** This is an application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, challenging the order dated 13.09.2024 passed by learned Judicial Magistrate, First Class, Dibrugarh in PRC Case No.1728/2021.
- 3.** On 13.09.2024, the respondent No.2 being the complainant was examined and discharged after the cross-examination by the present petitioner on the same date the respondent No.2 filed the application before the Trial Court stating that the Police seized some documents in that case and those documents were left out to be exhibited by her at the time of her cross-examination. Therefore she prayed to recall herself for producing those documents.
- 4.** The learned Trial Court agreed with the respondent No.2 and allowed her prayer.
- 5.** The learned Senior counsel for the petitioner submits that the said order was passed without giving any opportunity of being heard to the petitioner and no chance was given to the petitioner to file an objection.
- 6.** The learned Senior counsel for the petitioner further submits that in the said petition filed by the respondent No.2, she did not mention what were the documents which she wanted to exhibit.
- 7.** I have considered the submissions made by learned counsel for both the sides.
- 8.** This Court is of the opinion that the present petitioner should have been given a chance to contest the said prayer by inviting an objection which the learned Trial Court

did not do.

**9.** Therefore the impugned order dated 13.09.2024 is bad in law and stands set aside.

**10.** The Trial Court is directed to give an opportunity to the present petitioner to file an objection and after hearing both the sides, the application filed by the respondent No.2 shall be disposed of.

**11.** With the aforesaid direction, the Criminal petition stands disposed of.

**JUDGE**

**Comparing Assistant**