

THE HIGH COURT OF SIKKIM: GANGTOK
(Criminal Jurisdiction)

SKHC01-000086-2026

SINGLE BENCH: THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

Crl. M.C. No.10 of 2026

1. Karma Bhutia,
S/o Late P.B. Bhutia,
Aged about 54 years,
R/o Thanka Martam, Gangtok, District
P.O. Nazitam-737134,
P.S. Singtam.
2. Leela Bhujel @ Neelu Bhutia,
W/o Karma Bhutia,
Aged about 37 years,
R/o Thanka Martam, Gangtok District
P.O. Nazitam-737134
P.S. Singtam.
3. Sonam Wangdi Bhutia,
Son of Late Papypay Bhutia,
Aged: 45 years,
R/o Thanka Martam, Gangtok District
P.O. Nazitam-737134
P.S. Singtam.
4. Phigu Bhutia,
W/o Late Pepay Bhutia,
Aged about 81 years,
R/o Thanka Martam, Gangtok District
P.O. Nazitam-737134
P.S. Singtam.

..... Petitioners

Versus

State of Sikkim

..... Respondent

**Petition under Section 528 of Bharatiya Nagarik
Suraksha Sanhita, 2023.**

Appearance:

Mr. Deven Sharma Luitel, Advocate for the Petitioners.

Mr. S.K. Chettri, Additional Public Prosecutor for the Respondent.

Date of Hearing	:	31.07.2026
Date of Judgment	:	31.07.2026
Date on which uploaded	:	01.08.2026

JUDGMENT (ORAL)

Bhaskar Raj Pradhan, J.

1. The present petition under section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (the BNSS) has been filed before this Court on behalf of four petitioners namely, Karma Bhutia; Leela Bhujel @ Neelu Bhutia; Sonam Wangdi Bhutia and Smt Phigu Bhutia-victim since deceased. Karma Bhutia son of the victim and Neelu Bhutia his wife are the accused persons in the present case. Sonam Wangdi Bhutia the other son was the complainant whose complaint led to the registration of the First Information Report (FIR) on 12.09.2024 after the incident. The above persons are arrayed as petitioner nos. 1 to 4 in the present petition respectively.

2. It may be important to state the relevant facts for disposal of the present petition. The incident occurred on 11.09.2024. It was alleged in the FIR dated 12.09.2024 lodged by petitioner no.4 that at around 07:00 p.m. on 11.09.2024 Karma Bhutia and his wife-Neelu Bhutia came to the victim's house and assaulted the 80 years old victim with a sharp weapon causing

injuries to her head and leg. She was thereafter, taken to STNM Hospital for treatment where she was in serious condition.

3. Accordingly, FIR no. Singtam 137/2024 dated 12.09.2024 was registered under section 118(2) and section 3(5) of the Bharatiya Nyaya Sanhita, 2023 (the BNS) against the accused persons.

4. On 27.02.2025 the police filed a charge-sheet alleging prima facie case under section 118(2) of the BNS relates to voluntarily causing grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death. The punishment prescribed is punishment with imprisonment for life, or with imprisonment of either description for a term which shall not be less than one year but which may extend to ten years, and shall also be liable to fine. Section 3(5) of the BNS relates to criminal acts done by several persons in furtherance of the common intention of all is also pressed. The provision makes each of such persons liable for that act in the same manner as if it were done by him alone.

5. On 13.01.2026 a purported compromise deed was entered into between the accused persons, the victim and the complainant. The said compromise deed bears the purported thumb impression of the victim. Although the purported compromise deed is said to have been entered on 13.01.2026 itself, the present petition was filed before this Court only on

08.06.2026 almost after five months. Two days thereafter, the victim expired. These facts are certain.

6. The compromise deed does not indicate that there was any independent assessment of the mental state or capacity of the victim at the time when the purported compromise deed was purportedly executed. The victim was not only aged but had also suffered serious injuries on her head.

7. On the above given facts it would be difficult for this Court to ascertain the mental state of the victim when she is said to have put her thumb impression on the purported compromise deed. The fact that the victim's thumb impression has been obtained in the compromise deed reflect that she was either illiterate or unable to affix her signature thereon. As there is no independent evidence to gauge her mental state and her capacity to comprehend what she was signing on the said date, I do not think it would be a fit case where I should exercise the inherent powers of the High Court to quash the FIR and the accompanying charge-sheet. Such powers can be exercised to do complete justice. The better course of action for the accused persons would be to face trial before the competent court and absolve themselves, if they have a case, if so advised.

8. The petition is therefore, rejected.

(Bhaskar Raj Pradhan)
Judge

Approved for reporting : **Yes**

to/