

**HIGH COURT OF TRIPURA
AGARTALA
Crl. Petn. No.71 of 2025**

Sri Sanjoy Das

Son of Sri Haralal Das,
Resident of Chandinamura, P.S. West Agartala,
District-West Tripura;

----- Petitioner(s)

Versus

1. The State of Tripura,

represented by the Secretary, Home Department,
Government of Tripura, Civil Secretariat,
New Capital Complex, P.S.-N.C.C.,
Kunjaban, Agartala, District West Tripura.

As per Hon'ble Court's order dated 06.01.26 passed in IA 01 of
2025, the name of the respondent No.2 has been added:

2. Smt. Mukul Das Tapadar,

Wife of Sri Dipak Tapadar
of School para, Madhya Bhubanban,
P.S. West Agartala, District- West Tripura;

----- Respondents

For Petitioner(s)	:	Mr. Debesh Chandra Roy, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P., Mr. Samar Das, Adv, Mr. Agniva Chakrabarti, Adv.
Date of hearing	:	13.04.2026
Date of delivery of Judgment & Order	:	22.04.2026
Whether fit for reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

Heard Learned Counsel, Mr. Debesh Chandra Roy appearing
on behalf of the petitioner. Also, heard Learned P.P., Mr. Mr. Raju
Datta appearing on behalf of the State-respondent. Further, heard

Learned Counsel, Mr. Samar Das appearing on behalf of the respondent No.2.

2. This petition under Section 528 of BNSS is filed for quashing the West Agartala PS FIR No.83 of 2025 under Section 281/106(1) of BNS, 2023.

3. At the time of hearing, Learned Counsel for the petitioner, Mr. Roy drawn the attention of the Court that in this matter according to prosecution the alleged incident took place on 07.03.2025 but the alleged FIR was submitted at PS on 02.05.2025 and the case has been registered on 17.07.2025 after a long delay of the alleged accident of offence, so, prima facie there is no merit in the FIR laid by the informant which needs to be interfered with and set aside. Learned Counsel, Mr. Roy further drawn the attention of the Court referring the contents of the FIR and submitted that this false and concocted story has been projected by the informant party just to harass the petitioner. It was also submitted that after registration of the case police initially on 20.07.2025 issued one notice to the present petitioner. After that, again on 09.10.2025 further notice has been communicated by the IO to the petitioner of this case and his motor cycle has been wrongly seized by police in connection with this case just to harass the petitioner. So, Learned Counsel for the petitioner urged before the Court to quash the FIR by invoking the jurisdiction of this Court under Section 528 of BNSS.

4. Learned P.P. appearing on behalf of the State-respondent submitted that the investigation of the case is almost completed. A short time may be given to the IO to submit the charge-sheet against

the accused. It was also fairly submitted by Learned P.P. that the present petitioner is a Constable of Police.

5. Learned Counsel, Mr. Samar Das appearing on behalf of the respondent No.2 submitted that there is no falsehood in the FIR laid by the informant party but the petitioner tried to influence the investigation being police personnel inspite of happening of specific accident and if at this stage the investigation is stopped then the respondent No.2 would be seriously prejudiced. So, Learned Counsel urged for directing the IO to complete the investigation within a short span of time as the matter is lingering since long back.

6. This present petition is filed under the provision of Section 528 of BNSS which provides as under:

"528. Savings of inherent powers of High Court.- Nothing in this Sanhita shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Sanhita, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

From the aforesaid provision of law, it appears that Section 528 of BNSS can be invoked by a Court to prevent absence of the process of any Court or otherwise to secure the ends of justice.

7. Here in the case at hand, admittedly the alleged accident took place on 07.03.2025. Now, for the sake of convenience let us reproduce hereinbelow the fact of the prosecution case. According to the informant, Smt. Mukul Das herein the respondent No.2, on 17.03.2025 her son Uday Tapadar and his friend Suman Das after completion of their works were returning back to home by riding one motor bike bearing No.TR-01-AX-5452 through Moylakhola road and at about 10.30 pm when they arrived nearby Joyram Tiffin House at

Chandinamura that time from the opposite direction one motor bike bearing No.TR-01-AB-4870 came in high speed from the wrong side and dashed against the motor bike being driven by her son and his friend resulting which they fell down on the road and dashed against a electric pole and sustained fatal bleeding injuries. Immediately, her son and his friend were shifted to GB Hospital, Agartala and that time, they also rushed to GB Hospital and found that her son and his friend were struggling for survival and on 08.03.2025 her son and his friend succumbed to their injuries. It was further stated in the FIR that the accident took place due to rash and negligent driving of the motor bike bearing No.TR-01-AB-4870. It was also stated that the rider of the offending motor bike knowingly fully that the accident may occur had driven the same rashly and illegally dashed against the motor bike of her son for which they had lost their life. Admittedly, the alleged accident took place on 07.03.2025 and the FIR was registered on 17.07.2025 by O/C of West Agartala PS. In the FIR, it was mentioned that due to the alleged accident they became mentally frustrated and after completion of the rituals, the FIR was filed later on. Although on the body of the FIR, the date was given as 02.05.2025. Learned Counsel for the petitioner drawn the attention of the Court that there was long delay in lodging the FIR.

8. The case has been registered under Section 281/106(1) of BNS, 2023. Now, for the sake of convenience let us see what the aforesaid provisions contains:

Section 281 of BNS provides as under:

**"281. Rash driving or riding on a public way.-
Whoever drives any vehicle, or rides, on any public
way in a manner so rash or negligent as to endanger**

human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

The aforesaid provision is a cognizable offence and bailable and triable by any Magistrate.

Now Section 106(1) of BNS provides as under:

"106. Causing death by negligence.-(1) Whoever causes death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if such act is done by a registered medical practitioner while performing medical procedure, he shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine."

The said provision also a cognizable offence, triable by Magistrate 1st Class.

9. Hon'ble the Supreme Court of India regarding the delay in lodging the FIR have passed so many judgments. In **Punit Beriwal vs. State of NCT of Delhi and others** reported in **2025 SCC OnLine SC 983**, Hon'ble the Apex Court in para Nos.36 and 37 observed as under:

"DELAY CANNOT BE A GROUND FOR QUASHING THE PRESENT FIR

36. Further, accepting the reasoning given by the learned Single Judge in the impugned order that 'there had been a delay in registration of the FIR and because of such delay, the allegations made by the Appellant are unbelievable' and the submissions of learned senior counsel for Respondent Nos.2 and 3 that no complaint/FIR should be entertained 'at this distance of time', would mean in effect in accepting the argument that delay is a sufficient ground for quashing of the present FIR/complaint.

37. It is settled law that delay in registration of the FIR for offences punishable with imprisonment of more than three years cannot be the basis of interdicting a criminal investigation. The delay will assume importance only when the complainant fails to give a plausible explanation and whether the explanation is plausible or not, has to be decided by the Trial Court only after recording the evidence. In this context, the Supreme Court in **Skoda Auto Volkswagen (India) Private Limited v. State of Uttar Pradesh**, (2021) 5 SCC 795 has held. "The mere

delay on the part of the third respondent complainant in lodging the complaint, cannot by itself be a ground to quash the FIR. The law is too well settled on this aspect to warrant any reference to precedents.....”

From the aforesaid observation of the Hon’ble Supreme Court, it appears that delay in lodging the FIR cannot be treated as a sufficient ground for quashing of proceedings. It was further observed that delay in FIR is not fatal. It cannot stop the investigation and becomes only relevant if plausible explanation is not given during trial.

10. In another case in **Sushil Kumar Tiwari vs. Hare Ram Sah & Ors.** in **SLP(Crl.) No.18377 of 2024** dated **01.09.2025**, Hon’ble the Supreme Court of India in para No.21 observed as under:

“21. As regards the delay in lodging the FIR, we feel that the same has been appropriately explained. The incident came to light only after the ultrasound conducted on 01.07.2016 and the FIR was lodged on the very next day. Before the discovery of offence, the delay of 3-4 months was a consequence of the intimidation made by the Respondent Nos.1 and 2, which prevented the victim from opening up before her parents. It is completely natural and understandable. We do not find that the victim could be faulted in any manner on account of delay.”

Similarly, in another case in **Skoda Auto Volkswagen (India) private Limited vs State of Uttar Pradesh and others** reported in **(2021) 5 SCC 795**, Hon’ble the Apex Court in para Nos.17 and 18 observed as under:

“17. The question whether the third respondent complainant purchased 3 vehicles as revealed by VAHAN portal of the Government or 7 vehicles as claimed by him in his complaint, is a question of fact which has to be established only in the course of an investigation/trial. In a petition for quashing the FIR, the Court cannot go into disputed questions of fact.

18. The mere delay on the part of the third respondent complainant in lodging the complaint, cannot by itself be a ground to quash the FIR. The law is too well settled on this aspect to warrant any reference to precedents. Therefore, the second ground on which the petitioner seeks to quash the FIR cannot be countenanced.”

From the aforesaid observations, it is clear that mere delay in lodging the FIR cannot by itself a ground for quashing the criminal proceedings. Here in the case at hand the alleged offence appears to be cognizable one. It is also the admitted position that on 07.03.2025 the alleged accident took place and due to that the son of the informant and his friend sustained fatal injuries and ultimately, they succumbed to their injuries. Regarding delay, there is an explanation that due to the alleged occurrence, they became mentally frustrated and for observing the rituals delay caused in lodging the FIR. At the time of hearing, Learned Counsel for the petitioner could not raise any other points save and except delay in lodging the FIR and also could not place any materials before the Court as to why the prosecution case be disbelieved at this stage.

11. I have also perused the Case Diary. It appears that in course of investigation the I/O also recorded the statements of some of the witnesses who are conversant with the subject matter of the case. Further, it appears that in course of investigation the I/O also could record the statements of some independent witnesses who were present to the PO at the time of alleged accident and they could see the occurrence of offence and also could see the petitioner to be involved with the alleged offence. From the Case Diary, it appears that by this time the I/O has conducted a major part of the investigation. He also could procure the report of SFSL and also could collect the PM report of the deceased. From the PM report of the deceased namely Uday Tapadar, it appears that the death of the said victim was occurred due to head injury caused by impact of hard and

blunt force. In respect of another deceased perhaps the PM report is still pending. From the mechanical inspection report, further it appears that there was damage to the offending vehicle and also from the statement of witnesses so far recorded by IO, it appears that on the alleged day the accident took place and due to accident the victims had lost their life. The investigation is almost completed. So, at this stage considering the materials on record I do not find any scope to quash the proceeding invoking the jurisdiction of this Court under Section 528 of BNSS.

12. In the result, the petition filed by the petitioner under Section 528 of BNSS stands dismissed being devoid of merit. The IO be asked to submit report at an earliest to the jurisdictional Court in final form.

Pending applications(s), if any, also stands disposed of.

Send down the record to the Learned Trial Court, if any, along with a copy of this order.

Return back the Case Diary to IO through Learned P.P. along with a copy of this order.

सत्यमेव जयते

JUDGE