GAHC010149512026

2026:GAU-AS:10170

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

Case No. : Crl.Pet./1043/2026

UMESH BASFOR AND ANR
SON OF LATE CHANDRIKA BASFOR, A RESIDENT OF GHANDI COLONY, WARD NO 7, LUMDING TOWN, POLICE STATION AND POST OFFICE LUMDING, HOJAI, ASSAM, PIN 782447

2: BIKASH CHAKROBORTY
SON OF LATE NIRMOL CHAKROBORTY
RESIDENT OF JABRAKHOLA
WARD NO 4
LUMDING TOWN
POLICE STATION AND POST OFFICE LUMDING
DISTRICT HOJAI
ASSAM
PIN 78244

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM,

2:SRI GITA MURA
WIFE OF LAT BIJOY MURA
A RESIDENT OF NAGORPARA NEAR TOWER
POLICE STATION AND POST OFFICE LUMDING
DISTRICT HOJAI
ASSAM
PIN 78244

Advocate for the Petitioner : ALHAJJ I UDDIN, MR ROBIUL HOQUE,MRS. R MOMTAZ

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ANJAN MONI KALITA

ORDER

24.07.2026

1. Heard Mr. A. I. Uddin, learned counsel for the petitioners. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the State of Assam.

2. This is an application filed under Section 528 of the BNSS, 2023 read with Article 227 of the Constitution of India, assailing the order dated 19.07.2025 passed by the learned Additional Sessions Judge, Hojai in Case No. Sessions (2) 49/2024, whereby, the learned Additional Sessions Judge had rejected the prayer for adjournment made on behalf of the conducting counsel who was suffering from illness and directed the petitioners to deposit a cost of Rs. 10,000/- on that day itself and in failure of payment of the aforesaid amount on that day, the cross-examination part of the PW-1 would be treated as dispensed with by the defense.

3. The learned counsel appearing for the petitioners submits that after framing of the charge, 19.07.2025 was fixed for examination of the PW-1, namely Smti. Gita Murah, the respondent in the instant case. He submits that though examination-in-Chief was recorded on that day, however, due to the absence of the Senior Counsel for his ailment, the junior counsel present had prayed for adjournment of the part of cross-examination by the defense counsel who was not present to cross-examine the victim i.e.

PW-1. He submits that though there was no failure on the part of the counsel appearing for the accused persons and that was the first date when the matter was taken up for examination of PW-1, the learned Trial Court directed that cross-examination to be allowed only on a condition of payment of Rs. 10,000/- which is harsh in the facts and circumstances of the present case and also directed to pay the amount on the same date itself, otherwise, the cross-examination of PW-1 shall be dispensed with.

4. The learned counsel appearing for the petitioners further submit that the order is very harsh in the facts and circumstances and the same will hamper the fair trial of the petitioners.

5. This Court has gone through the order that has been passed on 19.07.2025 by the learned Trial Court and other materials placed before this Court by way of filing this instant petition.

6. Upon due consideration, this Court is of the opinion that the order dated 19.07.2025 passed by the learned Additional Sessions Judge, Hojai, should be set aside.

7. Accordingly, the order dated 19.07.2025 passed by the learned Additional Sessions Judge, is set aside.

8. It is directed that the petitioners shall be allowed to deposit an amount of Rs. 5,000/- before the learned Trial Court and on the next date fixed, the counsel for the accused persons shall be allowed to cross-examine the PW-1 i.e. the victim.

9. In terms of the aforesaid directions, the instant criminal petition stands disposed of.

JUDGE

Comparing Assistant