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

Case No. : Crl.Pet./1068/2026

SHRI LUNKARAN PRAJAPAT
S/O KHUMANARAM PRAJAPATI,
R/O HOUSE NO. 7, FIRST FLOOR, GURU TEG BAHADUR PATH,
BEHARBARI, CHARIALI, NH-27, GUWAHATI-781029.

VERSUS

SHRI ASHOK KUMAR JAIN
S/O HIRALAL JAIN, R/O HOUSE NO. 3, KARUNALOY, NAYANPUR, 1ST BYLANE, HASTINAPUR ROAD, GUWAHATI -781005.

Advocate for the Petitioner : MR H GUPTA, MS. P AGARWALA

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : – 06.08.2026

Heard Mr. H. Gupta, learned counsel for the petitioner.

2. In this petition, under Section 582 BNSS, 2023 the petitioner has challenged the Order, dated 01.07.2026, passed by the learned Judicial Magistrate First Class, Kamrup(M), Guwahati (hereinafter, 'Trial Court'), in C.R. Case No. 5426/2017.

3. It is to be noted here that vide impugned order, dated 01.07.2026, the learned Trial Court has dispensed with the cross-examination of the DW-1 and rejected the Petition No. 2207/2026, filed by the petitioner and fixed the case for final argument.

4. Mr. Gupta, learned counsel for the petitioner submits that the petitioner is the complainant in C.R. Case No. 5428/2017, and while the case was fixed for cross-examination of DW-1, the petitioner herein could not appear and cross-examine the same on different dates and lastly on 01.07.2026, the petitioner has one application for adjournment of the case to another date for cross-examination. But, vide impugned order, dated 01.07.2026, the prayer for adjournment so made by the petitioner was rejected by the learned Trial Court.

4.1. Mr. Gupta also submits that unless the petitioner is allowed to cross-examine the DW-1, he will suffer serious prejudice and under such circumstances, he has contended to allow only one chance to the petitioner herein to cross-examine the DW-1. Mr. Gupta, also submits that the petitioner herein was also suffering from some illness for quite some time and in support of the said illness, some documents have also been enclosed with the petition.

5. Having heard the submission of the learned counsel for the petitioner, this Court has carefully gone through the petition and the documents placed on record and also perused the medical documents submitted along with the petition and also gone through the certified copy of the orders of the learned Trial Court, from 01.10.2024 till 01.07.2026, produced before this court by Mr. Gupta.

6. It is a fact that the petitioner, on five dates, has taken adjournments on different grounds and on some of the dates, the presiding officer was also on leave. And as such the though some delay is there the reason of the same cannot be attributed to the petitioner alone.

7. It is also to be noted that right to fair trial is a fundamental right. And fair trial includes fair and proper opportunities allowed by law to the parties to the *Lis*, and denial of such right means denial to fair trial.

8. Keeping aforesaid proposition in mind and also considering the facts and circumstances on record, this Court is of the view that at least one last opportunity may be given to the petitioner to cross-examine the DW-1.

9. Accordingly, the learned Trial Court is directed to afford one last opportunity to the petitioner to cross-examine the DW-1. It shall recall the DW-1 for cross-examination by the petitioner herein. And in order to facilitate to carry out of such an exercise by the learned Trial Court, the impugned order,

dated 01.07.2026, stands set aside and quashed.

10. In terms of the above, this Criminal Petition stands disposed of at this motion stage itself.

JUDGE

Comparing Assistant