

GAHC020002942025

2025:GAU-NL:592



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

Case No. : Crl. Pet./16/2025

SHRI ANUP GADAL
S/O LATE KUMAR GADAL, RESIDENT OF MIDDLE DUDHEY,
JAMDAR VITTA, P.O. PANKHABARI, POLICA STATION KURSEONG,
DISTRICT DARJEELING, WEST BENGAL-734316

VERSUS

THE STATE OF NAGALAND AND 2 ORS
REPRESENTED BY THR PUBLIC PROSECUTOR. KOHIMA BENCH,
GAUHATI HIGH COURT

2:THE STATION HOUSE OFFICER

DIMAPUR EAST POLICE STATION
DIMAPUR
NAGALAND-797112

3:SMTI ASANGLA AO (VICTIM)

THROUGH THE STATION HOUSE OFFICE
EAST POLICE STATION
DIMAPUR
NAGALAND
79711

Advocate for the Petitioner : PRATAP KHATI, ASENLA LONGKUMER

Advocate for the Respondent : P.P, NAGALAND,

**BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER**

Advocates

For the Petitioner	: Mr. Vikas Kumar : Mr. Pratap Khati : Ms. Bandana Rai
For the Respondents	: Ms. S. Mere, Public Prosecutor
Date on which Judgment is reserved	: 28.11.2025
Date of pronouncement of Judgment	: 03.12.2025
Whether the pronouncement is of the operative part of the Judgment?	: Full judgment
Whether the full Judgment has been pronounced?	: Yes

::JUDGMENT & ORDER (CAV)::

The present application under Section 528 of the BNSS has been filed for quashing of the FIR in East Police Station Case No. 274/23 under Section 420/403/406/120B IPC lodged on 24.09.2023 and also the subsequent proceedings pending before the Chief Judicial Magistrate, Dimapur.

2. Heard learned counsel for the petitioner, Mr. Vikas Kumar along with learned counsel, Mr. Pratap Khati and learned counsel, Ms. Bandana Rai. Also heard Ms. S. Mere, learned Public Prosecutor for the State respondents. Mr. Rainbow Ezung submits that he has filed Vakalatnama in respect of the complainant/respondent 3, however, the same is not found on record.

3. The learned counsel for the petitioner at the outset submits that the impugned FIR dated 24.09.2023 has been lodged by one Mr. Kruto Tetseo,

who has no direct involvement in the alleged offence shown to have been committed in the FIR dated 24.09.2023 and appears to be acting at the behest of Smt. Asangla Ao, a senior government official, who claims to have been defrauded in a transaction involving a so called "Mystery Machine" valued at Rs. 4 Crore with an alleged buy-back of Rs. 22,004,00,00,000/- (Rupees Twenty-Two Thousand Four Crore), suggesting clear abuse of the criminal process for ulterior motives. Therefore the very FIR itself is not filed by the 'victim' or legal heir of the victim or guardian of the victim as mandated by the CrPC. Hence, the police could not have registered the said FIR.

4. Learned counsel for the petitioner states that the petitioner is a nationally acclaimed film and television producer, who has never interacted with the alleged victim and was not named in the FIR. Yet he was arrested on 10.02.2024 and produced through V.C before the learned Chief Judicial Magistrate, Dimapur, Nagaland. He was unlawfully detained, coerced into signing refund payments to the informant/complainant under pressure from investigating officers and in the presence of a Public Prosecutor, indicating collusion and abuse of power.

5. Learned counsel further submits that even after an expiry of more than 20 (twenty) months no Charge-sheet has been filed indicating that the investigating authorities have not been able to make out any case against the petitioner. It is further stated that during police remand an amount of Rs. 90 Lakhs was forcibly extorted from the petitioner, which the petitioner was made to transmit to the account of one M/S V.K Gas Agency and not to the alleged victim, Ms. Asangla Ao. This was done

under the guise of a settlement deed, reinforcing the *mala fide* intent of the complainant and misuse of police machinery.

6. Learned counsel also submits that the dispute is essentially of a civil nature and there is no criminal ingredient in the dispute. Learned counsel further submits that the co-accused, one Timothy Joshi was also arrested on 29.11.2023 but he was released on default bail by the Judicial Magistrate First Class, Dimapur, Nagaland on 01.02.2024 as the Investigating Officer could not file the Charge-sheet within the mandatory period. This also goes to show that the investigating agency has not been able to make out any case of criminal nature in the present case.

7. Learned counsel further submits that the Investigating Officer of the case had prayed for issuance of non-bailable warrant of arrest (NBWA) against the present petitioner. However, by an Order dated 30.01.2024, the learned Judicial Magistrate First Class refused to issue the NBWA against the petitioner on the ground that no notice had been issued to the present petitioner prior to filing of the application praying for issuance of NBWA. However, inspite of the Order dated 30.01.2024, the petitioner was arrested from Kalimpong, West Bengal on 06.02.2024 and produced before the Chief Judicial Magistrate, Dimapur on 10.02.2024. Learned counsel, therefore submits that the arrest was also illegal as it was affected without issuance of notice under Section 41A of the CrPC, which is a mandatory safeguard as laid down by the Hon'ble Supreme Court in ***Arnesh Kumar Versus State of Bihar*** reported in **(2014) 8 SCC 273**.

8. It is further submitted that the petitioner was also not provided with

written grounds of arrest in a language which he understood and that itself renders his arrest illegal and not sustainable in law as it is in violation of Section 50 of the CrPC and Article 22 (1) of the Constitution.

9. It is stated that during police custody the petitioner was subjected to custodial torture and coercion and he was compelled to execute a deed of agreement dated 15.02.2024 under duress through which he was made to pay Rs. 90 Lakhs immediately and agreed to pay an additional Rs. 34,39,100/- in three installments. Based on this forced agreement, and upon submission by the prosecution that the petitioner had paid Rs. 90 Lakhs and has agreed to pay the balance amount, the CJM, Dimapur granted bail to the petitioner on 19.02.2024.

10. Another submission of the learned counsel for the petitioner is that the petitioner had no connection with the alleged transaction set out in the FIR but he was arbitrarily arrested and forced to enter into a settlement under threat. It is stated that the offences alleged are triable by a Magistrate and punishable with imprisonment of less than 7 years. Yet no notice under Section 41A CrPC/35 of BNSS was ever issued and the petitioner was arrested arbitrarily from his home in Kalimpong. Further, 3 blank cheques duly signed by the petitioner's wife were taken by the police and handed over to the complainant.

11. The petitioner, therefore, submits that the allegations made against the petitioner are frivolous and the *mala fide* nature of the police at Dimapur is evident as the victim, Smt. Asangla Ao, who allegedly entered into a sale purchase agreement and paid Rs. 3,50,00,000/- (Rupees Three

Crores Fifty Lakhs) has not filed the complaint herself. Instead a person unrelated to the matter, one Kruto Tetseo filed the FIR, received the money and executed refund agreement, indicating high-handedness with ulterior motives. In fact, learned counsel states that the complainant/Kruto Tetseo is not the victim in terms of Section 2(wa) of the CrPC, which states that the victim is the person who has suffered any loss or injury due to the act or omission of an accused and also includes the legal heir or guardian of the victim. It is, therefore, submitted that the complainant/Kruto Tetseo is not a victim nor is he a legal heir or guardian of Smt. Asangla Ao and, therefore, he could not have filed the impugned FIR dated 24.09.2023.

12. The petitioner has relied on the following cases in support of his contention that this Court must not hesitate to quash criminal proceedings which are essentially of a civil nature to prevent abuse of the criminal process:-

- a. ***Ankul Singh vs. State of Uttar Pradesh and Anr.* reported in *Criminal Appeal No. 4250 of 2025***
- b. ***Jit Vinayak Arolkar vs. State of Goa & Ors.* reported in *Criminal Appeal No. 393 of 2024***
- c. ***Shailesh Kumar Singh Alias Shailesh R. Singh vs. State of Uttar Pradesh & Ors.* reported in *Criminal Appeal No. 2963 of 2025***
- d. ***Naresh Kumar & Anr. vs. The State of Karnataka & Anr.* reported in *Criminal Appeal No. NIL of 2024 arising out of SLP(CRL.) No. 1570 of 2021***
- e. ***Delhi Race Club (1940) Ltd & Ors. vs. State of Uttar Pradesh and Anr.* reported in *(2024) 10 SCC 690***
- f. ***Usha Chakraborty & Anr. vs. State of West Bengal & Anr.* reported in *Criminal Appeal No. NIL of 2022 arising out of SLP(Crl.) 5866 of 2022***
- g. ***Randheer Singh vs. State of Uttar Pradesh & Ors.* reported in *(2021) 14 SCC 626***
- h. ***Ganga Dhar Kalita vs. State of Assam and Ors.* reported in *(2015) 9 SCC 647***
- i. ***Paramjeet Batra vs. State of Uttarakhand and Ors.* reported in *(2013)***

11 SCC 673

- j. ***V.P. Shrivastava vs. Indian Explosives Ltd and Ors.* reported in (2010) 10 SCC 361**
- k. ***G. Sagar Suri and Anr. vs. State of U.P. and Ors.* reported in (2000) 2 SCC 636**
- l. ***State of Haryana vs. Bhajanlal and Ors. vs. Bhajan Lal and Ors.* reported in 1992 Supp(1) SCC 335**
- m. ***Mihir Rajesh Shah vs. State of Maharashtra and Anr.* reported in 2025 SCC Online SC 2356**

13. In view of the submissions hereinabove, the learned counsel for the petitioner prays that the FIR No. 274/2023 dated 24.09.2023 registered at the Dimapur East P.S under Section 420/406/403/120B IPC as well as the proceedings pending before the CJM, Dimapur may be quashed and set aside.

14. Learned Public Prosecutor, Ms. S. Mere appears on behalf of the State respondents and has made her submissions relying on the Charge-sheet which has been subsequently filed on 28.06.2025. Learned Public Prosecutor has drawn the attention of this Court to the statement of the victim, the petitioner/accused Anup Gadai as well as of the other co-accused. The learned Public Prosecutor has also relied on the enclosures/documentary evidences which are attached to the Charge-sheet. The learned Public Prosecutor submits that as per the findings of the investigating authority, the petitioner, along with co-accused/Timothy Joshi and Samuel Joshi had discussed about a school project and told the victim, Asangla Ao that the project amount is Rs. 50 Crores and that she should arrange an amount of Rs. 50 Lakhs to pursue the project, while meeting her at a hotel in Siliguri Town in the year 2020. They told the victim, Asangla Ao that after she pays the amount of Rs. 50 lakhs they would give her the code number for withdrawal of the project amount of

Rs. 50 Lakhs. The victim told them that she would think about the project and reply soon. However, she did not accept the proposal regarding the project. Thereafter, the petitioner and the co-accused/Timothy Joshi came up with another idea of the "Antique Box"/"Mystery Box". Since the co-accused/Timothy Joshi was a pastor, the petitioner told him to convince the victim. The petitioner also prepared some fake papers of R.M. Trading Company, mentioning about the "Mystery Box" and details of the box to the victim, and in this cheating plan the petitioner also requested one Manish Awasthi to perform the role of Managing Director of the R.M. Trading Company and one Rakesh as a Bangladeshi farmer. Learned Public Prosecutor states that in this cheating conspiracy, besides the petitioner, the co-accused Timothy Joshi, Manish Awasthi, Rakesh Kumar Singh and Samuel Joshi all benefitted from the cheated amount obtained from the victim. Learned Public Prosecutor states that the investigation has revealed that the petitioner's bank account was used for receiving certain portion of the amount from the victim and that there was no such "Mystery Box"/"Antique Box" and in fact it was just a conspiracy to extract money from the victim. Learned Public Prosecutor also submits that during the investigation all the CDR records of the phone number of the petitioner as well as of the co-accused persons were requisitioned and also the bank account details of all the accused persons. Learned Public Prosecutor, therefore, submits that basing on the statements of the accused persons as well as the documentary evidence a *prima facie* case has been made out against the petitioner/accused under Section 420/403/406/120B IPC and she, therefore, prays that the present petition may be dismissed and the trial may be allowed to continue in the interest

of justice.

15. I have considered the submissions of the learned counsel for the parties and have perused the pleadings as well as the Trial Court Records.

16. It is settled law that criminal proceedings cannot be used as a weapon of harassment and that dispute of civil nature arising out of an agreement or monetary transaction cannot be given a criminal color by instituting criminal proceedings. This Court has also considered the authorities relied upon by the petitioner. There is no dispute about the principles laid down in the judgments relied upon by the petitioner, however, each case has to be considered on its own facts and circumstances. And this court is of the view that the facts of the present case can be differentiated from the facts in the cases relied upon by the petitioner.

17. In the case of ***Inder Mohan Goswami & another Vrs State of Uttaranchal & Another***, reported in ***(2007)12 SCC 1***, the Hon'ble Supreme court stated:

"23. This Court in a number of cases has laid down the scope and ambit of courts powers under Section 482 CrPC. Every High Court has inherent power to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under Section 482 CrPC can be exercised:

(i) to give effect to an order under the Code:

(ii) to prevent abuse of the process of court, and

(iii) to otherwise secure the ends of justice

24. Inherent powers under Section 482 CrPC though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the statute".

18. In the case of ***Bhajan lal & ors(supra)***, the Hon'ble Supreme held:

*105*****we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*

- 1. Where the allegations made in the First Information Report of the complaint, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or make out a case against the accused.*
- 2. Where the allegations in the First Information Report and other materials, if any accompanying the FLR do not disclose a cognizable offence, justifying an investigation by police officers u/s 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
- 3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- 4. Where, the allegations in the FIR. do not constitute a ognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated u/s 155(2) of the Code.*
- 5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
- 6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code of the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

106. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases, that the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice".

19. What emerges out of the abovementioned authorities is that unless the case falls within the 'Bhajan Lal' category, the Court should not cut short a legitimate prosecution. Mere allegation of malice or ulterior motive is not a ground for quashing unless it is clearly established. If the allegations taken at face value make out ingredients of a cognizable offence quashing cannot be done, the court cannot examine the probability of conviction at this stage. Merely because a matter involves a civil dispute, either monetary, property or contractual, does not mean that criminal proceedings should be quashed if criminal elements exist. And that the power under Section 482 CrPC/528 BNSS is to be exercised very sparingly and with circumspection and that too in the rarest of rare cases.

20. During the pendency of the present criminal petition, a Charge-sheet has been filed and the case has been registered as G.R 739/2023. Upon going through the Charge-sheet it is made out that the complainant/Kruto tetseo has been fully authorized by the victim/Smt. Asangla Ao by executing a Power of Attorney dated 23.10.2023 empowering the complainant/Kruto Tetseo as her lawful attorney to file any suit or case against accused Timothy Joshi and party. The Power of Attorney has been

duly signed and registered before the notary public.

21. In the backdrop of the law as settled in the case of ***Bhajan Lal (Supra)*** and ***Inder Mohan Goswami (Supra)***, it is found from the Charge-sheet that the petitioner, co-accused Rev. Timothy Joshi, the victim, co-accused/Samuel Joshi, and co-accused/Rakesh Kumar Singh have all been examined by the investigating agency and several notarised certificates, bank account details and CDRs of phone numbers had been requisitioned by the investigating authority. Upon going through the Charge-sheet this Court finds that there is a *prima facie* case against the petitioner/accused along with the co-accused persons of dishonestly deceiving the victim/Asangla Ao by inducing her to part with a huge amount of money amounting to approximately Rs. 3,50,00,000/-(Rupees Three Crore Fifty Lakhs) for procuring a fake "Mystery Box/Antique box". This Court finds that the ingredients of Section 420/403/406/120B IPC are *prima facie* present in the instant case.

22. Upon going through the Charge-sheet as well as the enclosures which are annexed along with the Charge-sheet, this Court is of the view that the interference of this Court is not warranted in the present case. The petition is devoid of merit and accordingly dismissed.

23. The Registry to send back the Trial Court Records.

JUDGE

Comparing Assistant