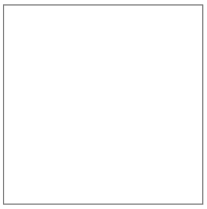
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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Petn./279/2026

Smti Neelam Nako
Wife of Shri Kabak Bhatt, resident of F Sector, PO and PS Naharlagun, Papum Pare District, Arunachal Pradesh.

VERSUS

The State of AP
through the Special PP (SIC), Govt of Arunachal Pradesh.

Advocate for the Petitioner : Marto Kato, Oli Jerang,Liya Keche,Kamin Teri,Tony Meto,Yasmin Gao,Mepe Ete,Nyali Sora

Advocate for the Respondent : Ojing Pada, SC (ACB)

:::BEFORE:::

HONOURABLE MR. JUSTICE SANJEEV KUMAR SHARMA

Advocate for the Petitioner	: Mr. Marto Kato
Advocate for the respondents	: Mr. O. Pada, Spl. P.P. (ACB)
Date on which judgment is reserved	: 16.11.2026
Date of hearing	: 16.11.2026
Date of Judgment and Order	: 20.11.2026
Whether the pronouncement is of the operative part of the judgment ?	: No
Whether the full judgment has been pronounced?	: Yes

JUDGMENT & ORDER (CAV)

Heard Mr. M. Kato, learned counsel for the petitioner and heard Mr. O. Pada, learned Special Public Prosecutor, Anti Corruption Bureau (ACB).

1). This is an application under Section 528 of the BNSS. By way of this application, the petitioner seeks quashing of the order dated 17.08.2026 passed by the Learned Special Judge, PC Act, Yupia, whereby, the charge has been framed against the petitioner for an offence punishable under section 420 and 120B IPC and thereby, quashing of the consequential proceedings in respect of the petitioner in connection with SIC (VIG.) P.S. Case No.02/2019, Under Section 409/420/467/468/471/120(B) of the Indian Penal Code, 1860 (State of Arunachal Pradesh -Vrs-Shri Kemo Lollen and 12 others).

2). The facts of the case may be briefly stated, the Dy.SP, SIC (VIG.), had lodged an FIR on 01.02.2019 against 16(six) alleged accused persons, alleging inter-alia that there was gross procedural irregularities on the part of various govt. officers and serious criminal misconduct causing wrongful loss to govt. exchequer and on the strength of said FIR, a case was registered as SIC(VIG.) P.S. Case No. 02/2019 under section-409/420/467/468/471/120(B) IPC read with Section-13(a)/13(2) of the Prevention of Corruption Act, 1988. The petitioner has not been named in aforesaid FIR.

3). Upon completion of the investigation, the I.O. of the case filed the Charge-Sheet being Charge-Sheet No.02/2023, dated 22.08.2023 against many other alleged accused persons for commission of various offences, and the petitioner, for offences punishable under sections-409/420/467/468/471/120B IPC. Thereafter, by the impugned order, the learned Court below framed charges against the petitioner under Section 420/120B IPC after considering the material on record.

4). It is submitted that during the consideration of Charges, on 21.03.2026, the petitioner has filed Written Submission, submitting inter alia that the petitioner has been falsely implicated as one of the accused person in aforesaid case only, because of use of her Bank Account by her husband during the disbursement of the Land Compensation from Potin to Bopi Trans-Arunachal Highway, without the knowledge and consent of the petitioner. As per the statement of the husband of the petitioner, the said Bank Account, was used by her husband as per the direction of the

Deputy Commissioner, Ziro, Lower Subansiri District, A.P, for their official purposes/arrangement like fooding, lodging, for holding meeting and other expenditures as per the direction of Deputy Commissioner, Lower Subansiri District.

5). In the FIR, it was alleged that there was gross procedural irregularities on the part of various govt. officers causing serious criminal misconduct resulting wrongful loss to govt. exchequer. It was further alleged that the officers have acted in connivance with certain private individuals and prepared forged bills, created fake beneficiaries and have abused their official positions in causing wrongful gain to certain officers and private individuals in disbursement of the Land Compensation of Trans-Arunachal Highway [hereinafter called "TAH" in short].

6). It is submitted that the petitioner is a doctor by profession and employed in Government service, and during the period when the acquisition process for TAH was carried out, some amounts were transferred to the petitioner's Bank Account and the said transfer was done by the DC & DLRSO, through her husband for his official purposes. The petitioner had no knowledge whatsoever regarding the transactions, had never been informed about the nature, purpose or source of the transactions. In the statements of her husband before the I.O, he has clearly admitted that the petitioner had no knowledge about the transaction and the petitioner Bank Account was used by her husband for official purposes. Moreover, no such allegation was made against the petitioner in the aforesaid Charge-Sheet and the involvement has not been made out against the petitioner. However, the petitioner has been

implicated as one of the accused person in the aforesaid case without there being any kind of involvement by the petitioner.

7). It is further submitted that the husband of the petitioner, namely Sri Kabak Bhatt, who is one of the accused persons in the aforesaid case, had used her Bank Account bearing A/c No. No.30754087628 maintained at SBI, Naharlagun Branch and A/c No.3537274914 maintained at Central Bank of India at Ziro Branch, for his official purposes/arrangement like fooding, lodging, for holding meeting and other expenditures as per the direction of Deputy Commissioner, Lower Subansiri District.

8). Learned counsel for the petitioner submits that in order to attract the provisions of Section 420 IPC, there must be dishonest inducement to deceive a person to deliver property to any other person, but in the present case, there is no such allegation against the petitioner, who never came into the picture before the cheques were deposited in her account, and therefore, Section 420 IPC cannot be said to be attracted. In this regard, learned counsel has relied upon the decision of the Apex Court in ***Rekha Jain vs. The State of Karnataka & Anr., reported in 2022 Supreme (SC) 424.***

9). As far as Section 120B IPC pertaining to criminal conspiracy is concerned, it is submitted that in order to attract the aforesaid provision, there must be a prior meeting of minds, which is absent in the present case, inasmuch as there is not even a whisper in the material on record that the petitioner had any prior knowledge of the matter, much less that she participated in any criminal conspiracy to commit any offence. The petitioner neither deposited the cheque herself into her bank account nor

did she fill up any cheque deposit form. Learned counsel has also pointed to the statement of the husband of the petitioner recorded under Section 161 C.r.P.C., wherein he has stated that the petitioner has no knowledge of the subject transactions in question. Furthermore, even in her own statement, the petitioner has denied having any knowledge about the acquisition process.

10). In support of his aforesaid submissions, learned counsel has relied upon the decisions of the Hon'ble Apex Court in:

i) **Ram Prakash Chadha Vs. The State of Uttar Pradesh, reported in 2024 INSC 522:**
ii) **P. K. Narayanan Vs. State of Kerala, (1995) 1 SCC 142;**
iii) **Sham Sunder & Ors. Vs. State of Haryana, 1989 Supreme (SC) 414; and**
iv) **Delhi Race Club (1940) Ltd. Vs. State of Uttar Pradesh, 2024 INSC 626.**

11.) *Per contra*, learned Standing Counsel, Anti Corruption Bureau, has submitted that by the impugned order, the learned Trial Court has only framed charge against the petitioner and has not convicted her, and therefore, the arguments advanced by the learned counsel for the petitioner cannot be accepted. It is further submitted that the materials on record are sufficient for the learned Trial Court to draw the prima facie satisfaction to proceed against the petitioner, and therefore, no interference is warranted.

12). I have given my anxious considerations to the rival submissions and have perused the materials on record.

13). A perusal of the Charge-sheet findings in respect of the husband of the petitioner, Shri Kabak Bhatt, shows that besides receiving huge sums of money in his own name and in the names of other people, he got issued three cheques in the name of his wife, that is, the petitioner, worth ₹. 21,40,000/-, ₹. 32,21,000/- and ₹. 22,84,000/- without having any name in the compensation chainage.

14). It is further stated in the Charge-sheet that the said Shri Kabak Bhatt, who was himself a member of the assessment team, prepared fake estimates for himself and fake beneficiaries, and allowed cheques being issued in the name of his wife without having any chainage numbers.

15). As far as the petitioner is concerned, it is stated in the Charge-sheet that she is the wife of Kabak Bhatt, member of the assessment team of Raga Sector, and in nexus with her husband, she has got three cheques of ₹. 21,40,000/- vide Cheque No.018738, ₹. 22,84,000/- vide Cheque No. 22624 and ₹. 32,21,000/- vide Cheque No. 029307 from the compensation of TAH without having any name in the compensation list/chainage number.

16). In his statement recorded by the Investigating Officer, the co-accused husband of the petitioner has stated in response to the query regarding deposit of the cheques in the accounts of his wife, that food and lodging for the TAH team was managed by him as per direction of the Deputy Commissioner, Ziro, and he was asked to pay the bills for around three months from the contingency fund of TAH, and subsequently, as promised, he gave him two cheques in his wife's name, and that his wife

did not know about the cheque amount as all was managed by him.

17). In her own statement, the petitioner claimed ignorance about the acquisition process, but admitted to receipt of the aforesaid cheques in her account despite not having any property in the compensation list. She further stated that the money so deposited was used to repay loan and the same amount was taken by her husband. She further stated that her husband told her that those amounts which were deposited in her account were for the expenses incurred in fooding/lodging of the assessment team of TAH.

18). At this stage, it would be appropriate to refer to the impugned order passed by the learned Trial Court, wherein in has been recorded as follows:

> "*22. I have also heard submissions made by Learned counsel for the accused persons. Learned counsel Mr. Marto Kato appearing for the accused person namely Kabak Bhatt and Neelam Nako has submitted that the accused persons may not be charged specifically the wife of accused Smti Neelam Nako has nothing to do in entire case. Basing on the report of fact-finding committee there cannot be any charges as offence under section 409 is not attracted against her as she is not a government servant neither any property is entrusted on her for committing an offence of criminal breach of trust.*
>
> *23. It is also submitted that no witnesses have given any statement against the accused Neelam Nako that the charges can be framed. She has received the amount against supply of food items to the assessment team. The hotel bills for fooding for the members of the assessment team are not in the record against which she has received the amount, as the I.O has not collected the same during investigation. It is prayed that the accused Neelam Nako may*

be discharged from present case.

39. Accused persons namely Yowa Rinya is the wife of ADO Toko Tath and Neelam Nako is the wife of JE Kabak Bhatt, they have received ₹. 3,66,00,000/- and 76,45,000/- in the name of compensation with nexus with their husbands. Yowa Rinya had minimal property estimated for ₹. 2,91,23,223/- but she has received exorbitant amount and Neelam Nako has received said amount as land compensation though she does not have any property. It is observed that plea of Neelam Nako that she has received said amount as food bills for the assessment team, however the record does not reveal such facts but it is reflected that above amount is received by her as land compensation and not for any other bills. On the other hand, no such food bills are available in the record. Rather it is revealed from the record that Yowa Rinya and Neelam Nako have received such exorbitant amount with criminal conspiracy with their husband who were members of assessment team.

40. It is observed that there is prima facie materials to frame charge against Yowa Rinya and Neelam Nako for commission of offence of cheating and dishonestly inducing delivery of properties punishable under section 420 IPC and criminal conspiracy with other accused persons to siphoned off public money in the name of land compensation punishable under section 120B of IPC."

19). At this stage, we may advert to the authorities cited by learned counsel for the petitioner.

20). In *Rekha Jain (supra),* the allegations of dishonest inducement and cheating were against the husband of the appellant, and considering the allegations in the FIR as they stood, and in the absence of any allegation of dishonest inducement by the appellant, it was held that it cannot be

said that she has committed any offence under Section 420 IPC. However, in the present case, although the petitioner may or may not have been involved in directly inducing or offering inducement to deceive any person, the allegation is that she acted in connivance with the main accused, i.e. her husband, pursuant to which she received the three cheques in question into her account, which according to the prosecution clearly points towards a criminal conspiracy.

21). *P. K. Narayanan (supra)* was a case where the Hon'ble Apex Court discussed the ingredients of the offence of conspiracy and held as follows:

> "*10. The ingredients of this offence are that there should be an agreement between the persons who are alleged to conspire and the said agreement should be for doing of an illegal act or for doing by illegal means an act which by itself may not be illegal. Therefore the essence of criminal conspiracy is an agreement to do an illegal act and such an agreement can be proved either by direct evidence or by circumstantial evidence or by both and it is a matter of common experience that direct evidence to prove conspiracy is rarely available. Therefore the circumstances proved before, during and after the occurrence have to be considered to decide about the complicity of the accused. But if those circumstances are compatible also with the innocence of the accused persons then it cannot be held that the prosecution has successfully established its case. Even if some acts are proved to have been committed it must be clear that they were so committed in pursuance of an agreement made between the accused who were parties to the alleged conspiracy.* ***Inferences from such proved circumstances regarding the guilt may be drawn only when such circumstances are incapable of any other reasonable explanation.*** *From the above discussion it can be seen that some of the circumstances relied upon by the prosecution are not established by cogent and reliable evidence. Even otherwise it cannot be said*

that those circumstances are incapable of any other reasonable interpretation."

22.) Apart from the fact that the above was a challenge to a conviction and not to framing of charges, in the facts of the instant case, I am inclined to hold the view that prima facie, the explanation offered by the petitioner is a specious one. However that is a question to be decided after the evidence has been adduced.

23). In *Ram Prakash Chadha (supra),* it has been held as follows:

> "*25. This Court in the decision in R. Venkatakrishnan v. CBI, (2009) 11 SCC 737, held that criminal conspiracy, in terms of Section 120B, IPC, is an independent offence and its ingredients are:*
>
> *(i) an agreement between two or more persons;*
>
> *(ii) the agreement must relate to doing or causing to be done either -*
>
> *(a) an illegal act;*
>
> *(b) an act which is not illegal in itself but is also done by illegal means.*
>
> *26. An important facet of law of conspiracy is that apart from it being a distinct offence, all conspirators are liable for the acts of each other of the crime or crimes which have been committed as a result of conspiracy. A careful scanning of the provisions under Sections 120A and 120B, IPC, would reveal that the sine qua non for an offence of criminal conspiracy is an agreement to commit an offence. It consists of agreement between two or more persons to commit the criminal offence, irrespective of the further consideration whether or not the offence is actually committed as the very fact of conspiracy constitutes the offence (See the decision in K.S. Narayanan & Ors. v. G Gopinathan, 1982 CriLJ 1611 (Madras)).*
>
> *27. There can be no doubt that conspiracy is hatched in privacy and not in secrecy, and such it would rarely be possible to establish conspiracy by direct evidence. A few bits here and a few bits there, on which the prosecution may*

rely, are not sufficient to connect an accused with the commission of the crime of criminal conspiracy. To constitute even an accusation of criminal conspiracy, first and foremost, there must at least be an accusation of meeting of minds of two or more persons for doing an illegal act or an act, which is not illegal in itself, by illegal means."

24). It is true that an agreement referred to in Section 120A IPC may be express or implied, or in part express and in part implied, but there must be some material in the record of the case or documents submitted therewith containing such allegation/accusation against the appellant.

25). In the instant case, there is a specific allegation in the charge-sheet that the petitioner acted in connivance with her co-accused husband, who got the cheques issued by the Deputy Commissioner and deposited the same in the account of the petitioner. Evidently, there may not be any direct evidence of the petitioner having entered into a conspiracy prior to the occurrence, but these are conclusions to be drawn by the Trial Court based on inferences from the available material on record and evidence adduced during the course of the trial.

26). The petitioner appears to have set up a defence that the money was deposited in her account for the purpose of reimbursement of monies paid on account of expenses for food and lodging of the TAH team. But it beggars explanation as to how the Deputy Commissioner could have issued cheques for that purpose in the name of the wife of the main accused except, the co-accused husband in his statement before the Investigating Officer claims to have paid for the food and lodging expenses from the contingency fund of the TAH, in which case there would have been no reason for the Deputy Commissioner to compensate

the said co-accused by issuing cheques in the name of the wife of the petitioner unless except for the purpose of compensation for land acquisition, which the petitioner was never entitled to. In any case, the above merely constitute the defence of the petitioner and does not emerge from the prosecution material produced before the Court, as observed by the learned Trial Court in the order framing charge adverted to hereinbefore.

27). In *Ram Prakash Chadha (supra),* it was held as follows:

> *"12. We have already considered the meaning of the expression "the record of the case and the documents submitted therewith" relying on the decision in Debendra Nath Padhi's case (supra) only to re-assure as to what are the materials falling under the said expression and thus, available for consideration of an application filed for discharge under Section 227. Cr.PC. In the light of the same, there cannot be any doubt with respect to the position that at the stage of consideration of such an application for discharge, defence case or material, if produced at all by the accused, cannot be looked at all. Once "the record of the case and the documents submitted therewith" are before the Court they alone can be looked into for considering the application for discharge and thereafter if it considers that there is no sufficient ground for proceeding against the accused concerned then he shall be discharged after recording reasons therefore. In that regard, it is only appropriate to consider the authorities dealing with the question as to what exactly is the scope of consideration and what should be the manner of consideration while exercising such power."*

28). In ***Union of India Vs. Prafulla Kumar Samal, (1979) 3 SCC 4, the Hon'ble Apex Court*** enunciated the principles that govern the framing of charges under Section 227 Cr.P.C. as follows:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case wouid naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial. "

29). It is also of significance to note that in *Ram Prakash Chadha (supra)* itself, the Hon'ble Apex Court held as follows:

"*19. In the light of the decisions referred supra, it is thus obvious that it*

will be within the jurisdiction of the Court concerned to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused concerned has been made out. We are of the considered view that a caution has to be sounded for the reason that the chances of going beyond the permissible jurisdiction under Section 227, Cr.PC, and entering into the scope of power under Section 232, Cr.PC, cannot be ruled out as such instances are aplenty. In this context, it is relevant to refer to a decision of this Court in Om Parkash Sharma v. CBI, (2000) 5 SCC 679. Taking note of the language of Section 227. Cr.PC, is in negative terminology and that the language in Section 232, Cr.PC, is in the positive terminology and considering this distinction between the two, this Court held that it would not be open to the Court while considering an application under Section 227, Cr.PC, to weigh the pros and cons of the evidence alleged improbability and then proceed to discharge the accused holding that the statements existing in the case therein are unreliable. It is held that doing so would be practically acting under Section 232, Cr.PC, even though the said stage has not reached. In short, though it is permissible to sift and weigh the materials for the limited purpose of finding out whether or not a prima facie case is made out against the accused, on appreciation of the admissibility and the evidentiary value such materials brought on record by the prosecution is impermissible as it would amount to denial of opportunity to the prosecution to prove them appropriately at the appropriate stage besides amounting to exercise of the power coupled with obligation under Section 232. Cr.PC, available only after taking the evidence for the prosecution and examining the accused."

30). In the present case, there appears to be sufficient material for the learned Trial Court to frame charge against the petitioner, and the allegations are also of a very serious nature involving misappropriation of huge amount of public money. Furthermore, even if ultimately the prosecution fails to establish the charge of criminal conspiracy, the role

proved to be played by the petitioner may yet amount to abetment of the principal offence under Section 420 IPC. In other words, the prosecution may fail to prove a prior meeting of minds between the petitioner and other co-accused, but yet the petitioner may still be liable for abetment of the acts of the co-accused by facilitating such withdrawal and misappropriation of public money, and therefore, it cannot be said that there is no ground for proceeding against the petitioner. Although no charge of abetment has been framed, it is not always necessary to do so and the accused can still be convicted of abetment of the principal offence without any charge pertaining to abetment having been specifically framed.

31). In *Delhi Race Club (supra),* the Supreme Court elucidated the distinction between mere breach of contract and the offence of criminal breach of trust and cheating. In the present case, there is no question of any breach of contract, and therefore, the aforesaid decision is of no relevance.

32). In *Sham Sundar (supra), the Apex Court* was dealing with a case under the Essential Commodities Act read with the provisions of the Partnership Act, and it was held that penal provisions must be strictly construed and that there is no vicarious liability in criminal law unless the statute takes that also within its fold. The present case is not one where the petitioner has been fastened with vicarious liability while framing the charge and therefore, the said decision is also of no help to the petitioner.

33). In view of the foregoing discussions, I do not find any infirmity in the impugned order of framing charge, and accordingly, I find there is no

merit in the present revision, which consequently stands dismissed.

34). It is also made clear that the observations on the factual aspects made hereinabove are only for the purpose of deciding the instant application and shall have no bearing while deciding the case or any other application by the Learned Trial Court/any other Court.

JUDGE

Comparing Assistant