

GAHC010020772026



2026:GAU-AS:1673

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

Case No. : Crl.Pet./158/2026

JAKIR HUSSAIN AND 2 ORS
S/O NURUL HUDA,
R/O VILL- CHATIAN
P.O. TINSUKIA,
P.S. JURIA
DIST. NAGAON, ASSAM
PIN-782124.

2: JAHANGIR ALAM
S/O JAKIR HUSSAIN
R/O VILL- CHATIAN
P.O. TINSUKIA

P.S. JURIA
DIST. NAGAON
ASSAM
PIN-782124.

3: AYSHA KHATUN
W/O JAKIR HUSSAIN
R/O VILL- CHATIAN
P.O. TINSUKIA

P.S. JURIA
DIST. NAGAON
ASSAM
PIN-782124

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP, ASSAM

2:ZANNATUL FERDOUS @ ZANNATUL FERDOUSI

W/O JAHANGIR ALAM
D/O DILDER HUSSAIN
PRESENTLY RESIDING AT VILL- CHATIAN
P.O. TINSUKIA
P.S. JURIA
DIST. NAGAON
ASSAM
PIN-78212

Advocate for the Petitioner : MR T H HAZARIKA, MR. K ISLAM,MR M CHETIA

Advocate for the Respondent : PP, ASSAM, MR S M ABDULLAH P(R2)

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

09.02.2026

Heard Mr. T.H. Hazarika, the learned counsel appearing for the petitioners. Also heard Mr. D.P. Goswami, the learned Addl. Public Prosecutor, Assam as well as Mr. S.M. Abdullah P, the learned counsel representing the Respondent No.2.

2. This is an application under Section 528 of the BNSS, 2023 praying for quashing the criminal proceedings of Nagaon P.S. Case No.861/2021 under Sections 123, 64, 85, 351(2) and 3(5) of the BNS, 2023.

3. In the FIR dated 09.10.2025, the informant girl has stated that on 28.07.2025, she was married to the petitioner Jahangir Alam. The petitioner Jahangir Alam was a teacher in a private school and he used to have tuition classes after school hours and that is the reason why he used to return home late at night. Taking chance of late return of her husband, his father Jakir Hussain often had sexual intercourse with the informant lady after administering her intoxicating substance. On 03.10.2025, the

informant woman told Jakir Hussain that she was not feeling well and on hearing that, he gave her two tablets, for which she became unconscious. In that condition, Jakir Hussain again had sexual intercourse with her. Next morning, the informant lady told her husband as well as her mother-in-law about the aforesaid facts. But they did not pay any heed to her. Rather, they tried to kill her by electrocution. Somehow, the complainant woman managed to escape.

4. Today, Mr. Abdullah appearing for the said complainant woman has submitted that she has now been living peacefully with her husband. Mr. Abdullah submits that for the sake of her future life, she wants the present three petitioners to be acquitted from the case.

5. I have considered the submissions made by the learned counsel of both sides.

6. The guidelines for consideration of a petition under Section 482 of the CrPC has been laid down by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal*, AIR 1992 SC 604. Paragraph 102 of the judgment reads as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, 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 may 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 or 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 FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 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 cognizable offence but

constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 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 or 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.”

7. Reverting to the case in hand, this Court is of the opinion that under the given circumstances, there is no possibility of the petitioners in the case before the trial court. Therefore, allowing criminal proceedings to continue before the trial court, would be nothing but an abuse of the process of the court. This Court is of the opinion that this is a fit case for exercising the power under Section 528 of the BNSS, 2023.

8. Accordingly, the criminal petition is allowed. The criminal proceedings of Nagaon P.S. Case No.861/2021 under Sections 123, 64, 85, 351(2) and 3(5) of the BNS, 2023, is quashed and set aside.

JUDGE

Comparing Assistant