GAHC010025092026

2026:GAU-AS:15206

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

Case No. : Crl.Pet./179/2026

NAGENDRA NATH MISHRA
SON OF LATE SITA RAM MISHRA
RESIDEN TOF SUBHASHPALLY FIELD, P.N. ROAD, P.O. AND P.S. DIBRUGARH, DIST. DIBRUGARH, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP BY THE PP, ASSAM

2:SRI RAM NIROJ SINGH
SON OF LATE KAMALA KANTA SINGH
RESIDENT OF COLE ROAD
MASTER PARA
P.O.AND P.S. BARBARUAH DISTRICT
DIBRUGARH
ASSAM
PIN- 786001

3:SRI RAJESH KUMAR GUPTA
SON OF LT. PHUL CHAND GUPTA
RESIDENT OF JAIN MANDIR ROAD
GRAHAM BAZAR
P.S. DIBRUGARH
DIST.DIBRUGARH
ASSAM
PIN-78600

Advocate for the Petitioner : MR. R S MISHRA, MS. M DEY,MS B SARMA

Advocate for the Respondent : PP, ASSAM, MR. B J BAROOAH (R-3),MR. D K BORDOLOI (R-3),MR. S NAG (R-2),MR. M MORE (R-2)

BEFORE
HON'BLE MRS. JUSTICE SHAMIMA JAHAN
ORDER

08.10.2026

Heard Mr R S Mishra, learned counsel for the petitioner. Also heard Mr R J Baruah, learned Additional Public Prosecutor for the State of Assam and Mr M More, learned counsel for the respondent No. 2 and Mr D K Bordoloi, learned counsel for the respondent No. 3.

2. By this application filed under Section 528 of the BNSS, 2023, the petitioner has prayed for setting aside the order dated 03.01.2026, passed by the Sessions Judge, Dibrugarh, in Criminal Revision Case No. 18 (2) of 2025, by which the respondent No. 3 was allowed to participate as an intervener in the said criminal case filed by the petitioner.

3. The case of the petitioner is that an FIR was lodged on 22.05.2021, by the In-Charge Headmaster of Marwari Hindi High School, stating *inter alia,* that the petitioner was the erstwhile Headmaster of the said school and he continued in his service from 16.06.2014 to 28.02.2021 and that he has been maintaining all the records of the school. It was further stated that on 22.08.2021, when the petitioner retired from his service, he handed over the charge casually to the informant and told him that on the next date, he would hand over all the records maintained by him. However, the next two days were

holidays and that the petitioner never came to the school and he never handed over the said records. It was further stated that on physical verification, it was known that the petitioner took away the relevant documents with some ulterior motive and the same were in his custody. It was also stated that letters were written to the petitioner to send back the records, but he had kept it illegally with him. The Police, on completion of the investigation, submitted charge sheet, not only against the petitioner, but also against the respondent No. 3, who was working as the Office Assistant during the service tenure of the petitioner. In the charge sheet, it was stated that a *prima facie* case was found against both the accused persons and the charge sheet was submitted. Thereafter, the case was placed before the concerned Court and the present case was registered as PRC Case No. 662 of 2024 and the Court of JMFC, Dibrugarh, on consideration of the materials and looking into the Police papers, had framed charge against the petitioner and the respondent No. 3, under Section 120 B/166/409/204 against the accused persons. It is the further case of the petitioner that he had challenged the charge framing order by filing a criminal revision petition being Criminal Revision No. 18(2) of 2025, and during hearing of the said criminal revision petition, respondent No. 3 had filed an application for allowing him to intervene in the matter and pass necessary order(s).

4. The learned Court, by order dated 03.01.2026, had allowed the petition by holding, *inter alia,* that respondent No. 3 is permitted to participate in the proceedings and advance submissions confined to the allegations made against him in the revision petition, and to defend the allegation only touching upon his role. The Court further

observed that the respondent No. 3, i.e., the petitioner, therein can challenge the order of charge by filing an independent revision petition, since the charge was also framed against him, but adhering to the principles of natural justice, the Court allowed the respondent No. 3 to be heard for safeguarding his interest.

5. The learned counsel for the petitioner submits that the order dated 03.01.2026 is not as per law since there is no provision under the BNSS, for impleadment of the co-accused in the revision application filed by the other accused, i.e., the petitioner. He submits that the respondent No. 3 can file an independent application challenging the charge framing, but cannot implead himself in the application filed by him before the revisional Court.

6. On the other hand, Mr M More, learned counsel for the informant, by placing reliance on Section 440 of the BNSS, 2023, which provides that during the hearing of revision application, the provisions of Sub- Sections (2), (3), (4), and (5), of Section 442 should be considered and by placing Sub-Section (2) of Section 442 of the BNSS, 2023, submits that no order can be passed by the revisional Court affecting the accused or other person unless an opportunity of being heard is afforded to the other person or the accused as the case may be. As such, he submits that the revisional Court had allowed respondent No. 3 to participate in the proceedings as per Sub-Section (2) of Section 442 of the BNSS, 2023.

7. The learned counsel for the respondent No. 3 also supports the argument made by

the learned counsel for the informant and further submits that he had neither mentioned in his application that he wants to implead himself, neither in the order, it was provided that he is impleaded in the proceedings. He submits that in his application, he had stated that he wants to intervene in the proceedings of the revisional Court and that the same has been allowed only to the extent that he can advance submission confined to the allegation made against him, which is according to him, as per law.

8. I have heard the learned counsels appearing for the parties and I have also gone through the records.

9. Section 440 of the BNSS, 2023, clearly provides that where any proceeding by way of revision is commenced before a Sessions Judge under Sub-Section (1), the provisions of Sub-Sections (2), (3), (4) and (5) of Section 442 of the BNSS, 2023, as far as it is applicable to such proceeding should be considered as references to the Sessions Judge. Sub-Section (2) of Section 442 of the BNSS, 2023, further provides that no order should be passed to the prejudice of the accused or other person, unless he has had the opportunity of being heard, either personally or by an Advocate. As such, the mandate of the law is that while passing an order in the revisional jurisdiction, the Court has to hear other persons, who will be prejudiced by the order passed in the revision petition and the said provision shows that the revisional Court can exercise the power, *suo-moto*.

9. In the instant case. It is seen that the respondent No. 3 had filed an application on 03.11.2025, stating therein, that he had come to know about the revision petition being

filed by the petitioner against the charge framing order and that charges are also framed against him and he has interest in the revision application filed by the petitioner, and as such, he prayed before the Court that he may be permitted to intervene in the proceedings. The Trial Court, by order dated 03.01.2026, had allowed the said prayer of the respondent No. 3 after a detailed deliberation on the said subject and permitted him to advance his arguments only with regard to the allegations that are made against him in the revision petition and to defend the said allegations. It is also held by the Trial Court that the said permission cannot be construed as a substitute for the independent challenge that is available to the respondent No. 3 to challenge the charge framing order against him. As such, it is seen that the said order is in consonance with Section 442(2) of the BNSS, 2023. It cannot be lost sight of the fact that the respondent No. 3 was not impleaded in the very true sense of the term in the said revision application, but was only allowed to participate with regard to the allegations made only against him. As such, this Court does not find any infirmity in the order dated 03.01.2026, passed in Criminal Revision Petition No. 18 (2) of 2025, by the Court of Sessions Judge, Dibrugarh.

10. Accordingly, the petition stands dismissed and disposed of.

JUDGE

Comparing Assistant