GAHC010061752026

2026:GAU-AS:16551

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

**Case No. : Crl.Pet./450/2026**

PHILIP MARAK
W/O SRI DOMINIC SANGMA, R/O DURGA SAROBOR, P.S. JALUKBARI, P.O. MALIGAON, GUWAHATI 11, KAMRUP (M), ASSAM.

VERSUS

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

2:SMTI MALATI SAHANI
W/O SRI PANNALAL SAHANI
R/O HAJONGBARI
P.S. PRAGJYOTISHPUR
DIST. KAMRUP (M)
ASSAM
PIN78105

**Advocate for the Petitioner** : MR S K SARKAR, MS. S DAS,J BAISHYA,MS R KALITA

**Advocate for the Respondent** : PP, ASSAM, MS. P MAZUMDAR(R2)

**BEFORE**
**HONOURABLE MRS. JUSTICE SHAMIMA JAHAN**

**ORDER**

**11.11.2026**

**1.** Heard Mr. S.K. Sarkar, learned counsel appearing for the petitioner. Also heard Mr. M.P. Goswami, learned APP appearing for the State of Assam and Ms.

P. Mazumdar, learned counsel appearing for the respondent No.2/informant.

**2.** By this application filed under Section 528 of the BNSS, 2023 read with Article 227 of the Constitution of India, the petitioner has prayed for quashing of the FIR dated 17.07.2023 registered as Pragjyotishpur Police Station Case No. 98/2023 under Section 363 of the IPC read with Section 6 of the POCSO Act, 2012. The petitioner has also sought quashing of the charge sheet submitted pursuant to the investigation in the said case as well as the subsequent proceedings initiated against him in Sessions (Special) Case No. 161/2023.

**3.** The case of the petitioner is that he and the alleged victim who is the daughter of respondent No. 2 were in a love relationship and that on 15.07.2023 the daughter of the informant had accompanied him on account of their said relationship. It is the further case of the petitioner that on 17.07.2023 the mother of the alleged victim lodged a missing report stating *inter alia* that on 15.07.2023 her daughter, i.e. the victim had informed her that she would be visiting her maternal uncle's house. However, she did not return home till the evening. Despite a search being conducted, she could not be traced.

**4.** The police, upon receipt of the said FIR investigated the case and upon completion of the investigation submitted a charge sheet on 31.07.2023 arraigning the petitioner as an accused. The charge sheet records that a prima facie case has been established against the petitioner as he was found to have established a physical relationship with the victim who was a minor at the relevant time after taking her to his workplace in Uttarakhand.

**5.** The learned counsel appearing for the petitioner submits that pursuant to the submission of the charge sheet and upon completion of the necessary formalities charges were framed against the petitioner under Section 363 of the

IPC as well as Section 4 of the POCSO Act and the trial commenced. The learned counsel further submits that during the course of the trial, the victim was examined as PW-1 and in her deposition before the trial Court stated that she had accompanied the petitioner to Uttarakhand of her own volition. She also deposed that she had stayed with the petitioner in a room provided by the owner of the resort where the petitioner was employed and that they had established a physical relationship while staying in Uttarakhand. The learned counsel has also drawn the attention of this Court to the cross-examination of the victim wherein she stated that while they were in Uttarakhand, the petitioner had applied vermilion on her forehead and that both of them intended to get married. She further stated that she did not wish the petitioner to be punished. The learned counsel thereafter submits that in the meantime, the victim has attained majority and has married the petitioner. They are presently residing together as husband and wife.

**6.** On the other hand, Ms. Mazumdar, learned counsel appearing for respondent No. 2 supports the submissions made by learned counsel for the petitioner. By referring to the affidavit filed in the present proceedings to which a copy of the marriage certificate has been annexed, she submits that the petitioner and the victim are married and are presently residing together as husband and wife.

**7.** Mr. M.P. Goswami, learned APP on the other hand submits that the trial has reached its fag end and that the proceedings ought not to be quashed at this stage, in view of the principles laid down by the Hon'ble Supreme Court in a number of decisions.

**8.** I have heard learned counsel for the parties and perused the records

available on record.

**9.** It is a settled position of law that criminal proceedings may, in appropriate cases be quashed upon a settlement being arrived at between the parties. The Hon'ble Supreme Court, in a number of decisions has laid down the principles governing the exercise of the power to quash criminal proceedings. One such decision is *Tarina Sen vs. Union of India & Another* reported in *2024 INSC 752* wherein the Hon'ble Supreme Court enumerated several categories of cases in which the power to quash criminal proceedings may be exercised. The relevant observations made therein are extracted herein below:-

> "*15. Relying on the earlier judgments of this Court, we have held that in the matters arising out of commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute, the High Court should exercise its powers under Section 482 Cr.P.C. for giving an end to the criminal proceedings. We have held that the possibility of conviction in such cases is remote and bleak and as such, the continuation of the criminal proceedings would put the accused to great oppression and prejudice.*"

It is evident from the aforesaid observations that one of the considerations for quashing criminal proceedings is whether their continuance would result in oppression or prejudice to either of the parties.

**10.** In the instant case, it is admitted that the petitioner and the victim who was a minor at the relevant time were in a relationship. From the statement of the victim recorded before the trial Court, it appears that she had accompanied the petitioner to Uttarakhand of her own volition on 15.07.2023. It is also evident from her deposition that they had established a physical relationship while staying in Uttarakhand. During her cross-examination, she further stated

that she intended to marry the petitioner and that the petitioner also intended to marry her. She also stated that the petitioner had applied vermilion on her forehead as an indication of their marital relationship. It is further noticed that the victim attained majority on 18.01.2026 and subsequently married the petitioner under the Special Marriage Act. The marriage was registered and the marriage certificate was issued on 26.05.2026. It is also noticed that the mother of the victim has filed an affidavit stating that although her daughter was a minor when she eloped with the petitioner she attained majority on 18.01.2026. Thereafter, a social marriage between the victim and the petitioner was solemnized on 20.03.2026 followed by the registration of their marriage on 26.05.2026. The mother of the victim has further stated that the petitioner and the victim are presently residing together as husband and wife and are leading a happy conjugal life.

**11.** In view of the aforesaid facts and circumstances, it can safely be inferred that the further continuance of the criminal proceedings against the petitioner would result in oppression and prejudice to the petitioner and the victim, as well as their respective families. Although it is noticed that the trial has reached its fag end and this Court should be reluctant to interfere with the proceedings at such an advanced stage but having regard to the peculiar facts and circumstances of the present case and with a view to avoid further oppression and prejudice to the parties concerned, this Court is inclined to exercise its jurisdiction to quash the proceedings against the petitioner.

**12.** Accordingly, the FIR dated 17.07.2023 registered as Pragjyotishpur Police Station Case No. 98/2023, the charge sheet submitted pursuant thereto on 31.07.2023 and the subsequent proceedings in Sessions (Special) Case No. 161/2023 going on before the Court of Additional Sessions Judge (POCSO),

Kamrup (M), Guwahati are hereby set aside and quashed.

**13.** The petition stands disposed of accordingly.

**JUDGE**

**Comparing Assistant**