

GAHC010064162026



2026:GAU-AS:4609

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

Case No. : Crl.Pet./471/2026

ASOMIYA PRATIDIN AND 4 ORS.
AN ASSAMESE DAILY NEWSPAPER PUBLISHED FROM BOIRAGIMATH,
CONVOY ROAD, DIST. DIBRUGARH, REPRESENTED BY ITS PROPRIETOR,
JAYANTA BARUAH.
2: SRI JAYANTA BARUAH
S/O LATE DEBANANDA BARUA
R/O HOUSE NO.169
SUNDERPUR
R.G. BARUAH ROAD
GUWAHATI
P.S. GEETANAGAR
DIST. KAMRUP (M).
3: SRI JATIN CHOUDHURY
S/O SUKHRAM CHOUDHURY
R/O DAKHIN GAON
KAHILIPARA
GUWAHATI
DIST. KAMRUP (M).
4: SRI DHARJYA HAZARIKA
S/O LATE BOGARAM HAZARIKA
R/O HOUSE NO. 19
GEETANAGAR
AMAR PATH
GUWAHATI DIST. KAMRUP (M).
5: SRI SUJIT KR. ROY
S/O LATE ARUN KUMAR ROY
R/O CHIPON CHILA
P.O. CHIPON CHILA
P.S. CHIPON CHILA
DIST. BONGAIGAO
VERSUS
DR MRIGEN CHOUDHURY AND ANR
S/O LATE MADAN MOHAN CHOUDHURY
PRINCIPAL OF WOMENS COLLEGE,

R/O DR BHUPEN HAZARIKA BYE LANE GELLAPUKHURI ROAD,
TINSUKIA, P.O. AND P.S. TINSUKIA, DIST. TINSUKIA, ASSAM, PIN NO.
786125
2:SRI PRANAB JYOTI SARMA
WILDLIFE ACTIVITIES AND SOCIAL ACTIVITIES MAIN ROAD
WARD NO. 5 (OPPOSITE ASSAM SILK HOUSE)
P.O. BONGAIGAON
DIST. BONGAIGAON
ASSAM
PIN-78338

Advocate for the Petitioner : MR. A DEKA, MR. S BORTHAKUR, R DEB, MS. S KAKATI
Advocate for the Respondent : ,

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

Date : 31.03.2026

- 1.** Heard Mr. S. Borthakur, learned counsel for the petitioners.
- 2.** This is an application filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in respect of CR Case No.22/2025 pending in the Court of the learned Judicial Magistrate First Class, Tinsukia.
- 3.** On 04.03.2025, the learned Court below had received the case record and before taking cognizance, notices were issued to the present petitioners under the provisions of Section 223 of the BNSS.
- 4.** I have considered the submissions made by the learned counsel for the learned counsel for the petitioner.
- 5.** When a complaint is presented before the Magistrate under Section 223 of the BNSS, 2023 on presentation of a complaint, it would be the duty of the Magistrate

to examine the complainant on oath, which would be his sworn statement and examine the witnesses present, if any and the substance of such examination should be reduced into writing. The question of taking cognizance would not arise at this juncture. The Magistrate has to, in terms of provisions, issue a notice to the accused, who is given an opportunity of being heard. Therefore, notice shall be issued to the accused at that stage and after hearing the accused, Court may take cognizance and regulate its proceedings thereafter.

6. The learned Trial Court has erroneously oriented itself while passing order dated 04.03.3035.

7. The Trial Curt is directed to examine the complaint on oath first and to examine witnesses, if there be any and after that the Trial Court shall issue notice to the accused.

8. At this stage, the petitioners need not appear before the Trial Court in response to the notices issued by the Trial Court. After examination of the complainant on and witnesses, if there be any, the Trial Court shall have the power to issue notice to the accused asking them to appear before him for hearing.

9. With the aforesaid direction, the present Criminal Petition stands disposed of.

JUDGE

Comparing Assistant