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2026:GAU-AS:15964

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

Case No. : Crl.Pet./609/2026

JADAV LASKAR
S/O DHAN LASKAR, R/O VILL KAMPUR, PO AND PS KAMPUR, DIST. NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:MISS JURIMONI BORGOHAIN
D/O SRI PRABIN BORGOHAIN
RO VILL- 1 NO. KATHIAKHUNDA
PS SAPEKHATI
DIST CHARAIDEO
ASSA

Advocate for the Petitioner : MR. A DAS,

Advocate for the Respondent : PP, ASSAM, MR. S BORAH (R-2),MR. D MEDHI (R-2),MS. S YESMIN (R-2)

BEFORE

HON'BLE MRS. JUSTICE MITALI THAKURIA

ORDER

02-11-2026

Heard Mr. A. Das, learned counsel for the petitioner and Ms. S. H. Borah, learned Additional Public Prosecutor, Assam for the respondent No.1. Also heard Mr. D. Medhi, learned counsel for the respondent No.2.

2. This is an application filed under Section 528 BNSS, 2023 for setting aside and quashing the FIR dated 28.03.2023; Charge Sheet No.16/2023 dated 30.04.2023 and the subsequent proceeding pending before the Court of learned District and Sessions Judge, Charaideo, Sonari in Sessions (CHA) Case No. 59/2023 arising out of Sapekhati P.S. Case No. 17/2023 under Section 376/417 IPC.

3. It is submitted by Mr. Das, learned counsel that the FIR has been lodged against the petitioner with some false and concocted allegation and the signature put in the FIR is also not the signature of the informant/victim. He further submitted that it is purely a case of honey trapping, wherein the petitioner was trapped only for their illegal gain for extracting money. He has not committed any such offence, as alleged in the FIR. But he had to face his Departmental Proceeding and under the Departmental Proceeding also initially he got suspended and finally he got order of discharge.

4. Mr. Das, learned counsel further submitted that the medical report also does not support the case of the prosecution and from the charge sheet it is also seen that there is no mark of violence on the private part and the body of the victim at the time of her examination. He further submitted that this case is

false and concocted case and only for their illegal gain, the FIR has been instituted wherein the respondent also demanded Rs.5,00,000/- to settle the matter or to withdraw the case.

5. Mr. Das accordingly submitted that this is a fit case, wherein the FIR, Charge Sheet and the subsequent proceeding may be set aside and quashed by invoking the power under Section 528 BNSS.

6. He further submitted that there is no proposal of marriage to the respondent and except some friendship between the parties, there is no such offence committed by the present petitioner and that apart, the status of marriage is also known to all the family members including the victim before lodging of the FIR. He also made a prayer that the signature of the informant can also be verified through FSL examination and medical report may also be called for from the concerned Police Station.

7. Mr. Medhi, learned counsel appearing for the respondent No.2 submitted that this is not at all a fit case for quashing and from the plaint reading for the FIR, it is seen that there was prima facie material to proceed with the case and on the basis of which, the case is already been charge sheeted and charge is also framed against the present petitioner and two witnesses including the informant and the victim has already been examined by the prosecution. More so, the petitioner did not raise those issues at the time of framing of charge and the case is proceeded accordingly, which is still in the evidence stage.

8. Mr. Medhi, learned counsel further submitted that if the petitioner is offended for the findings in the Departmental Proceeding, he may approach the appropriate forum for his relief, but this is not a forum to agitate the order of discharge/suspension of the petitioner at this stage.

9. Mr. Medhi, learned counsel accordingly, submitted that as per the guidelines passed by the Apex Court in the case of **State of Haryana v. Bhajan Lal**, reported in **1992 Supple. 1 SCC 335** also it is seen that a matter cannot be quashed if there is prima facie case reveals from the plain reading of the FIR. Mr. Medhi, learned counsel accordingly submitted that this is not at all a fit case to quash the FIR, the charge sheet and the subsequent proceeding under Section 528 BNSS.

10. Ms. Borah, learned APP raised objection and submitted that the case has already been charge sheeted, charge has been framed and the case is at the stage of evidence. Two witnesses including the informant and the victim has already been examined by the prosecution and there is no suggestion to the respondent that it is a case of honey trapping. More so, she categorically in her evidence stated that she herself lodged the FIR by putting her signature though the signature of the informant is challenged by the petitioner.

11. She further submitted that no prayer was made before the learned Trial Court to send the signature of the informant before the FSL for examination. She further submitted that there is no proper medical document to that regard, but the evidence of the prosecutrix is sufficient to establish a case under Section 376/417 of IPC and as per the allegation the accused petitioner had the physical relationship with her on the pretext of false promise of marriage and she was not aware about his marital status at the time of their relationship. Ms. Borah, learned APP accordingly submitted that this is not at all a fit case for quashing of the FIR, the Charge Sheet and the subsequent criminal proceeding and the present petition is liable to be dismissed.

12. Heard the submission made by the learned counsel for the parties and I have also perused the case record as well as the TCR received from the learned

Trial Court.

13. It is the basic contention of the petitioner that a false and concocted case has been instituted by the respondent only to harass the petitioner and with an ill motive to extract money from the petitioner. Further, it is the case of the prosecution that it is purely a case of honey trapping wherein he is trapped to extract money from him and after lodging of the FIR also, the respondent had demanded Rs.5,00,000/- to settle the matter or to withdraw the FIR.

14. Further, it is the case of the petitioner tht the signature which is available in the FIR is also not the signature of the informant/victim and the medical report also does not support the case of the prosecution. Only with a view to harass the petitioner, the FIR has been lodged with some false and concocted story.

15. On the other hand, it is the case of the respondents that the petitioner had sexual relationship with the informant/victim on the pretext of false promise of marriage and she was also not aware about the marital status of the petitioner during the time of their relationship. Further, it is the case of the respondents that the petitioner did not make any prayer for discharge at the time of charge hearing and will also get ample opportunity to cross examine the other witnesses and to produce their defence witnesses during the trial.

16. Admittedly, the case has already been charge sheeted, charge has already been framed and the case is presently pending at the stage of evidence. There is no prayer for discharge at the time of charge hearing, rather, from the order dated 13.02.2025, it reveals that the learned counsel for the accused persons has not raised any objection and only prayed to stand the trial. More so, the learned Sessions Judge had passed the order of charge after perusal of the FIR,

Charge Sheet and the FSL report, sketch map, seizure list, medical report and the statement made by the victim under Section 164 CrPC apart from the statement recorded under Section 161 CrPC.

17. After perusal of all those materials, finding a prima facie case, the charge has been framed by the learned Sessions Judge under Section 376/417 IPC.

18. Further on a plain reading of the FIR also it is seen that there is prima facie case against the petitioner, wherein the allegation of rape has been brought against him. It is not the case that the FIR does not disclose any materials against the present petitioner, rather, the statement made in the FIR clearly reveals a prima facie case against the present petitioner.

19. Coming to the medical evidence, it is seen that at the time of examination of the victim, no marks of injury was found on the private part and the body of the victim and she was also not pregnant at the time of her examination. But it is seen that the hymen was ruptured, however, no injury was found on any of her private part. Admittedly there was a consensual relationship between the accused and the victim and hence probability of finding any marks of violence on the private part or the body of the victim may not be there when the relationship was consensual.

20. More so, it is seen that two of the witnesses have already been examined including the victim and the informant, who incriminated the petitioner and she was found to be consistent in every stages of her evidence and statement. But these are the matter to be decided and discussed at the time of hearing of this case, but prima facie it is seen that there is sufficient materials to proceed with the case.

21. Coming to the order of suspension and discharge of the petitioner, it is

seen that during the pendency of the case, he got suspended and discharged finally. But those are not the issues to be decided and discussed in a petition for quashing and the petitioner may approach the appropriate forum, if he is aggrieved with the order of suspension and discharge.

22. Further from the evidence of the victim/informant, it is seen that she claimed in her cross examination that she put the signature on the FIR and it is her signature which is available in the FIR. On the other hand, the petitioner had challenged that the signature which is available in the FIR is not the signature of the informant and for that also the petitioner can well approached the learned Sessions Court to get the signature verified through the FSL expert.

23. So, from the above discussion made above, it is seen that there is a prima facie case found to be established against the present petitioner on the basis of which the charge sheet is also filed and charge has also been framed against the petitioner.

24. In case of **State of Haryana v. Bhajan Lal**, reported in **1992 Supple. 1 SCC 335**, the Hon'ble Apex Court had provided several guidelines while disposing the criminal petition for quashing. The following guidelines are issued in para 102, which 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 channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such powers 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 entirely 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 expert 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 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."

25. But here in the instant case, it is seen that from the plain reading of the FIR itself it is seen there is prima facie case against the present petitioner and considering all these aspects of the case, this Court is of the opinion that it is not at all a fit case to quash the FIR dated 28.03.2023; Charge Sheet No.16/2023 dated 30.04.2023 and the subsequent proceeding pending before the Court of learned District and Sessions Judge, Charaideo, Sonari in Sessions (CHA) Case No. 59/2023 arising out of Sapekhati P.S. Case No. 17/2023 under Section 376/417 IPC by invoking the power under Section 528 BNSS.

26. Accordingly, this criminal petition being devoid of any merit stands dismissed.

JUDGE

Comparing Assistant