GAHC010095422026

2026:GAU-AS:15072

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

Case No. : Crl.Pet./687/2026

SRI GUNAGOBINDA DEKA
S/O MAHESWAR DEKA
R/O HARIBHANGA P.O. HARIBHANGA P.S. TIHU
DISTRICT - NALBARI, ASSAM PIN-781371, PH. NO. 9435311117 (M)

VERSUS

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

2:SMTI BANDANA DAS BORO
W/O SRI SUNANDA BORO R/O BORGAON
BOROSUPA P.S.- TIHU DISTRICT - NALBARI
ASSAM PIN-78137

Advocate for the Petitioner : MR. B B GOGOI, MR. K KALITA

Advocate for the Respondent : PP, ASSAM, MS. L DEVI, LEGAL AID COUNSEL (R-2)

BEFORE

HON'BLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

07.10.2026

Heard Mr B B Gogoi, learned counsel for the petitioner and Mr D P Goswami, learned Additional Public Prosecutor for the State of Assam. Also heard Ms L Devi, learned *Amicus Curiae,* representing the informant.

2. By this application filed under Section 528 of the BNSS, 2023, the petitioner has prayed for setting aside the FIR lodged against him being Barama PS Case No. 112/2024, registered under Section 75 of the BNS, 2023, read with Section 10 of the POCSO Act, 2012. The petitioner has also challenged the charge sheet submitted pursuant thereof on 10.03.2025, along with the charge framing order dated 21.01.2026, passed by the Special Judge, Baksa, Mushalpur, framing charge against the petitioner under Section 10 of the POCSO Act, read with Section 75 (1) of the BNS, 2023.

3. The case of the petitioner is that an FIR was lodged by the mother of the victim, stating *inter alia,* that her daughter, who was aged 12 years had told her that one teacher of the school, i.e., the petitioner has been harassing her by touching her private parts of the body. She also stated that her daughter revealed to her that while she was along with two boys in a classroom, the petitioner came near her and touched her private parts. She also stated that her daughter had requested the petitioner not to do the same, but the petitioner has been continuing with the act. The Police, on receipt of the FIR, registered the same under Section 10 of the POCSO Act, read with Section 75 of the BNS, 2023, On completion of the investigation, the Police submitted charge sheet vide Charge Sheet No. 19/2025, on 10.03.2025, arraying the petitioner along with the Principal and the clerk of the school as accused persons. Thereafter, the charges were framed by the Trial Court against the petitioner under Section 10 of the POCSO Act, read with Section 75(1) of the BNS, 2023.

4. The learned counsel for the petitioner, by relying upon the resolution taken by the

school, submits that the two boys, who were with the victim, had shown their ignorance about the action of the petitioner and on that ground, a resolution was taken by the School Committee that the allegation made by the victim was false. As such, the learned counsel submits that since the allegations were considered to be false by the school authority, the said criminal proceeding against the petitioner be set aside and quashed. He also submits that in the charge sheet, it was stipulated that on the day of occurrence, two numbers of other girls had stated that they saw the petitioner along with the victim in the classroom and that they felt that the petitioner might have touched her. He as such, submits that there is inconsistency in the statement of the victim, as to whether two boys were there or two girls were there on the day of occurrence with her.

5. Mr D P Goswami, learned Additional Public Prosecutor, on the other hand, submits that since the case is registered under the POCSO Act, the statement of the prosecutrix before all the authorities should be seen and if it is found consistent, the same cannot be quashed.

6. Ms L Devi, learned *Amicus Curiae,* also supports the submissions of the learned Additional Public Prosecutor, to the effect that the offence under the POCSO Act is meted out by the statement of the victim.

7. I have heard the counsels and I have gone through the records.

8. It is seen that the trial in the instant case is going on and three witnesses were already

examined out of the 9(nine) witnesses arrayed in the charge sheet. It is further noticed that the victim in her statement before the Police recorded under Section 161 CrPC, had stated in clear terms that the petitioner repeatedly, had touched her private parts and that although two boys were there in the school, they were busy with their own work. The victim, thereafter, in her statement before the Magistrate stated that the petitioner by sitting in her bench had touched her private parts inappropriately and when she requested him not to touch, the petitioner had again touched it. In her statement before the Trial Court, the victim had again made similar statement that the petitioner came near her, sat in her bench and touched her private parts. As such, it is seen that there is consistency in the statement of the victim before all the authorities and on that ground, this Court is not inclined to quash the FIR or the charge sheet or the charge framing order as prayed for by the petitioner. Accordingly, this petition is dismissed.

JUDGE

Comparing Assistant