GAHC010111672026

2026:GAU-AS:16232

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

**Case No. : Crl.Pet./804/2026**

SRI SIMANTA DAS AND 2 ORS.
SON OF SRI GATHIRAM DAS RESIDENT OF SONARIBARI GAON P.O-KAMALABARI P.S-MAJULI DIST-MAJULI, ASSAM

2: SRI PABAN DAS
SON OF SRI GATHIRAM DAS RESIDENT OF SONARIBARI GAON P.O-KAMALABARI P.S-MAJULI DIST-MAJULI
ASSAM

3: SRI MONTU DAS
SON OF SRI GATHIRAM DAS RESIDENT OF SONARIBARI GAON P.O-KAMALABARI P.S-MAJULI DIST-MAJULI
ASSA

VERSUS

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

2:SRI UMARAM DAS
S/O-LATE SUSEN DAS R/O-SONARIBARI GAON. P.O-KAMALABARI P.S-MAJULI DIST-MAJULI
ASSA

**Advocate for the Petitioner** : MR. P J SAIKIA, B SHARMA,MS. M PATIRI

**Advocate for the Respondent** : PP, ASSAM, MS. P CHOUDHURY (R-2),MR. C DAS (R-2),MR. I CHOUDHURY (R-2)

**BEFORE**
**HONOURABLE MR. JUSTICE ROBIN PHUKAN**

**ORDER**

**04.11.2026**

Heard Mr. P. J. Saikia, learned counsel for the petitioners and Mr. R. J. Barua, learned Additional Public Prosecutor for the respondent No. 1 Also heard Mr. P. Choudhury, learned counsel for the respondent No. 2.

**2.** In this petition, under Section 528 of the BNSS, 2023, the petitioners, namely, Simanta Das, Paban Das and Montu Das, have prayed for setting aside and quashing the entire proceeding of Sessions Case No. 30/2025, pending before the Court of the learned Sessions Judge, Majuli, under Sections 329(3)/131/117(2)/118(2)/ 109(1)(Part-II)/3(5) of the BNS, 2023; and also the Order, dated 19.05.2026, passed by the learned Sessions Judge, Majuli, in Sessions Case No. 04/2026, whereby, the learned Sessions Judge, Majuli, has dismissed the compromise petition filed by the parties.

**3.** Mr. Saikia, learned counsel for the petitioner submits that the petitioners are accused in Sessions Case No. 30/2025, arising out of Majuli P.S. Case No. 25/2025. He also submits that the above-noted case has been registered on the basis of one FIR lodged by one Umaram Das, on 27.10.2025, and upon the said FIR, investigation was carried out and after completion of investigation, the I.O. has laid charge-sheet against the present petitioners under Sections 191(3)/329(4)/117(2)/ 118(2)/109(1) of the BNS, 2023, wherein, the petitioners are appearing regularly and charges have been framed and the case is pending at the stage of evidence.

**3.1** Mr. Saikia also submits that in the meantime, the parties have entered into a compromise and they have also executed one compromise deed and on the basis of the same, they have filed one application before the learned Sessions Judge, Majuli, for compounding the matter. But the learned Sessions Judge, Majuli, vide impugned order, dated 19.05.2026, has dismissed the petitioner, on the ground that the offences are non-compoundable.

**3.2** Mr. Saikia further submits that the petitioners and the respondent No. 2 are distant relatives. And referring to a decision of the Hon'ble Supreme Court in the case **of H. N. Pandakumar Vs. State of Karnataka**, reported in **2025 Supreme (SC) 39**, he submits that though, the case is registered under Sections 118(2)/109(1)(Part-II), which are non-compoundable, yet, this Court, under Section 528 of the BNSS, 2023, has the power to quash the criminal proceeding, involving the non-compoundable offences.

**3.3** It is the further submission of Mr. Saikia that since the victim and the petitioners are distance relatives and since the entire matter has amicably been settled between them, no purpose would be served by further proceeding with the case as the victim is unlikely to support the case of the prosecution and as such further proceeding would ne exercise in futility and waste of time. Therefore, he has contended to allow this petition.

**4.** Per contra, Mr. Barua, learned Additional Public Prosecutor for the State respondent submits that though, the offences under Sections 118(2)/109(1)(Part-II) are not compoundable, yet, in view of the decision of the Hon'ble Supreme Court in the case of **The State of Madhya Pradesh Vs. Laxmi**

**Narayan and Others**, reported in **2019 5 SCC 688**, this Court has the power to quash a proceeding, even though the offences are non-compoundable.

**5.** Ms. Choudhury, learned counsel for the respondent No. 2 submits that the respondent No. 2 has no objection and to that effect, he has filed one affidavit in this matter. She also submits that in view of the guidelines laid down by the Hon'ble Supreme Court in the case of **Laxmi Narayan (Supra),** the offences, even though non-compoundable, can be quashed and further proceeding would be an abuse of the process of the Court and as such, the respondent No. 2 has no objection in quashing the proceeding.

**6.** Having heard the submissions of the learned counsel for both the parties, this Court has carefully gone through the petition and the documents placed on record and also perused impugned Order, dated 19.05.2026.

**7.** The basic facts herein this case is not in dispute. The respondent No. 2 has lodged an FIR on 27.10.2025 against the present petitioners, alleging that on that day, at about 6:30 PM, they have assaulted his son by means of dao, etc., and injured him seriously over his head, hand, back, chest and limbs. Further, it appears that upon registering Majuli P.S. Case No. 25/2025, investigation was carried out, which culminated in submission of charge-sheet, upon which, the cognizance was taken and thereafter, charges have been framed under Sections 329(3)/131/117(2)/118(2)109(1)(Part-II)/3(5) of the BNS, 2023, against the petitioners and out of the aforementioned sections, Sections 118(2) and 109(1)(Part-II) of the BNS, 2023, are non-compoundable.

**8.** Further, it appears that when the case is pending before the learned Sessions Judge, Majuli, for evidence, and the parties have settled the dispute and entered into a settlement deed, which is enclosed with the petition at page No. 59. And on the basis of the said settlement deed, they have approached the learned Court below for compounding the matter. But the learned Trial Court, vide impugned order, dated 19.05.2026, has dismissed the petition, the offences under Sections 118(2) and 109(1)(Part-II) of the BNS, 2023, being non-compoundable.

**9.** It is to be noted here that while dealing with the power of High Court under Section 482 Cr.P.C. in quashing of criminal proceeding in the case of Gian Singh v. State of Punjab reported in (2012) 10 SCC 303; a three-Judge Bench of Hon'ble Supreme Court has clarified the distinction between compounding of offences under Section 320 Cr.P.C. and the High Court's inherent power to quash criminal proceedings under Section 482 CrPC (now corresponding to Section 528 BNSS). It has been held in the said case that the power of the High Court under Section 482 Cr.P.C. to quash a criminal proceeding, FIR, or complaint is distinct and different from the power of a criminal court to compound offences under Section 320 Cr.P.C. Further it has been held that Section 320 is a statutory power limited to the offences listed therein. Whereas, Section 482 is an inherent power of wide plenitude, with no statutory limitation other than the guidelines of securing the ends of justice or preventing abuse of the process of any court. It is not controlled or limited by Section 320. Further it has been held that quashing on the basis of a settlement between the offender and the victim is, therefore, not the same as compounding, and the two are not interchangeable. Laying down guiding

principles for quashing on settlement it has held that whether the High Court may exercise this power, depends on the facts and circumstances of each case; no rigid categories can be prescribed. The core proposition are extracted herein below:-

(i) Heinous and serious offences involving mental depravity (e.g., murder, rape, dacoity) cannot ordinarily be quashed merely because the victim or the victim's family has settled with the offender. These affect society at large.

(ii) Offences under special statutes such as the Prevention of Corruption Act, or offences committed by public servants in that capacity, generally should not be quashed on private settlement.

(iii) Cases having an overwhelmingly and predominantly civil flavour—arising from commercial, financial, mercantile, partnership, civil, matrimonial (including dowry-related), or family disputes, where the wrong is basically private or personal in nature—stand on a different footing.

(iv) In the latter category, if the parties have fully and completely settled the dispute, the High Court may quash the proceedings if:

(a) the possibility of conviction is remote and bleak, and

(b) continuation of the criminal case would cause great oppression and prejudice to the accused and result in extreme injustice.

**9.1.** Again, while dealing with quashing of the proceeding involving

serious offences, specially under Section 307 IPC, the Hon'ble Supreme Court in the case of **Laxmi Narayan (Supra),** in paragraph No. 13(iv), has held as under –

> "**13(iv) Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves.**
>
> **However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the**

**decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove"**

**9.2.** Again, in the case of **H. N. Pandakumar (Supra),** referred to by Mr. Saikia, learned counsel for the petitioners, Hon'ble Supreme Court has held that if the parties are related and if they have settled the dispute amicably, and are no longer willing to proceed with the case, then even if the offences are non-compoundable, the proceeding can be quashed.

**10.** Herein this case in respect of the same incident another FIR was lodged by Sri Gathiram Das on 27.10.2025 before the Majuli PS against 1. Bikash Das, 2. Umaram Das, 3. Champa Das, 4. Satish Das and 5. Bhoni Das, which was registered as Majuli PS Case No-24/2025 U/S 191(3)/117(2)/118(2)/109(1) BNS. After investigation of the same charge sheet has been submitted before the learned Court below and upon the same Sessions Case No-4/2025, has been registered and now pending for trial.

**10.1.** It also appears that in the instant case respondent No.2/complainant and his family members got injuries. Respondent No.2 got laceration, multiple abrasions and tenderness over his forearm, abdomen and back and the nature of injury is grievous and weapon used is dangerous. His daughter Nayani Das got laceration, swelling and tenderness over right cheek and below right eye and the nature of injury is dangerous and weapon used is dangerous. His another daughter, Bhoni Das got abrasion and tenderness over right forearm and back and left side of forehead and the nature of injuries are simple and caused by dangerous weapon. His son

Bikash Das got multiple abrasion, laceration, abrasion and tenderness over palm of left hand, scalp of right side and bilateral knee and the nature of injuries are dangerous and caused by dangerous weapon. His another daughter, namely, Sabitry Das got laceration and tenderness over scalp and the nature of injury is previous and caused by dangerous weapon.

**10.2.** This Court has also gone through the examination in chief of the evidence of the respondent No.2, whose cross-examination has been kept reserved. And having gone through the same this court finds that though the attending Doctor in his report has opined that some of the injuries sustained by the victims are grievous and dangerous in nature, yet, if the said finding is examined in the light of the requirement of Section 320 IPC and also in the light of the examination in chief of the respondent No.2, the said opinion may not withstand the legal scrutiny. And consequently, the charges so framed under Section 118(2)/109(1) (Part-II), by the learned Court below may not sustain at the end of trial. It is made clear that this is a prima-facie view of the Court, based upon the materials placed before this Court.

**11.** Thus, applying the ratios, laid down by the Hon'ble Supreme Court in the case of **Laxmi Narayan (Supra)** and in the case of **H. N. Pandakumar (Supra)** to the given factual matrix of the case in hand, this Court is of the view that a case for quashing the entire proceeding is made out.

**12.** It is however a fact that the offences under Sections 118(2) and 109(1) (Part-II) of the BNS, 2023, are non-compoundable. Yet, since the parties are related to each other and since they have settled the dispute amicably, no

useful purpose would be served, if further proceeding of the case is allowed to continue before the learned Trial Court, as the respondent No. 2 herein is unlikely to implicate the petitioners with the offences alleged, in view of the compromise, which they have already arrived at and as such further proceeding with the case would be an exercise in futility and a sheer waste of time.

**13.** Under the given facts and circumstances, this Court finds sufficient merit in this petition and accordingly the same stands allowed.

**14.** The entire proceeding of Sessions Case No. 30/2025, pending before the Court of the learned Sessions Judge, Majuli, and also the Order, dated 19.05.2026, passed by the learned Sessions Judge, Majuli, in Sessions Case No. 04/2026, stands quashed.

**15.** In terms of the above, this criminal petition stands allowed.

**JUDGE**

**Comparing Assistant**