GAHC010132192026

2026:GAU-AS:16251

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

Case No. : Crl.Pet./951/2026

MD RAFI AHMED
S/O- MD. JAFIR UDDIN AHMED R/O- DIMRAPUR P.S- HOJAI P.O-DIMRUPAR
DISTRICT- HOJAI, ASSAM PIN CODE-782435

VERSUS

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

2:MUSSTT MURAFA BEGUM
D/O-LATE FAIZ HUSSIAN LASKAR R/O- JUGIJAN P/S- JAMUNAMUKH
DIST- HOJAI
ASSA

Advocate for the Petitioner : MR I RAFIQUE, CHONBEN Z YANTHAN,N CHAKRABORTY,MS A AFREEN,MRS S A CHOUDHURY

Advocate for the Respondent : PP, ASSAM, MR. A K SHARMA (R-2),MD. A H LASKAR (R-2)

BEFORE

HON'BLE MRS. JUSTICE MITALI THAKURIA

ORDER

05-11-2026

Heard Mr. I. Rafique, learned counsel for the petitioner and Ms. S. H. Borah, learned Additional Public Prosecutor, Assam for the respondent No.1.

Also heard Mr. A. H. Laskar, learned counsel for the respondent No.2.

2. This is an application filed under Section 528 BNSS for quashing the order dated 02.04.2026, passed by the learned SDJM (M), Hojai in connection with PRC Case No. 2126/2025 whereby the prayer for discharge made by the present petitioner was dismissed and also further prays for quashing of the Charge Sheet No. 269/2025 dated 31.10.2025.

3. It is submitted by Mr. Rafique, learned counsel that the respondent No.2 had lodged the FIR against the present petitioner and his family members with some false and concocted allegations without any basis. On earlier occasions also she lodged FIR which was subsequently withdrawn by her and both the parties also entered into a compromise and settled the matter amicably. But in the compromise petition also there is no mention about any demand of dowry by the present petitioner.

4. Mr. Rafique, learned counsel stressed on the point that the learned Trial Court had rejected the prayer for discharge only with the observation that the statement made by the victim/informant is corroborated with the statement made by the witnesses recorded by the I.O., wherein it is seen that she was subjected to harassment in demand of dowry. Further it is observed by the learned Trial Court that the medical report also lends some support to the allegations made and the delay of 3 days in lodging the FIR etc. But he submitted that as per the I.O., he found no such allegation of demand of dowry or physical assault etc., during his investigation while recording the statement of the witnesses, who resides near the house of the accused petitioner.

5. He further stressed on the statement made by the I.O. in the charge sheet, wherein it is specifically stated by the I.O. that he did not find any such

evidence of physical assault from the neighbour and the family members also denied any demand of dowry or physical torture on the victim/informant. However, the charge sheet was only filed finding domestic quarrel between the parties under Section 85 BNS. He accordingly submitted that the I.O. did not find anything against the accused petitioner, however, only considering the domestic quarrel between the parties, the case has been charge sheeted under Section 85 of BNS. Accordingly, Mr. Rafique, learned counsel submitted that it is a fit case to quash the order dated 02.04.2026, the charge sheet and the entire criminal proceeding pending before the Court of learned SDJM (M), Hojai.

6. Mr. Rafique further submitted that the respondent No.2 is the habit of filing/lodging of FIR only to harass the petitioner and in every occasion those were already withdrawn and the parties also arrived at a settlement. Considering all these aspects of the case, it is a fit case to quash the order dated 02.04.2026, the charge sheet and the entire criminal proceeding pending before the Court of learned SDJM (M), Hojai by invoking the power under Section 528 BNSS.

7. Mr. Laskar, learned counsel for the respondent No.2/informant submitted that the learned Trial Court had rightly passed the order by rejecting the prayer for discharge as prima facie there is a case established against the petitioner under Section 85 BNS. Even if in the medical report there may not mention about any physical injury, but the mental harassment she has gone through from the date of her marriage, clearly establishes a case under Section 85 BNS. She was even tortured by locking her inside a room and the FIR reflects the entire story as to how, she was subjected to torture, which bound her to lodge the FIR against the present petitioner.

8. Mr. Laskar, learned counsel further submitted that the learned Trial Court

rightly observed that the statement of the witnesses are corroborated by the statement of the other witnesses recorded by the I.O. during investigation. Mr. Laskar accordingly submitted that it is not at all a fit case to quash the order dated 02.04.2026, the charge sheet and the entire criminal proceeding pending before the Court of learned SDJM (M), Hojai by invoking the power under Section 528 BNSS and the preset petition is liable to be dismissed. Further he submitted that the petitioner will get ample opportunity to cross examine the witnesses during the trial of this Case.

9. Ms. Borah, learned APP also raised objection and submitted that the neighbours of the accused may not so aware of the torture inflicted on the victim, which was within the four walls of the house, but they have heard the quarrel between the parties and the I.O. also during investigation found that there was a domestic quarrel between the parties and on the basis of which the charge sheet was also submitted under Section 85 BNS. She further submitted that as per Section 85 BNS, it is not required that there has to be some physical torture or injuries, even if there is mental harassment on demand of dowry will satisfy the condition for establishing a case under Section 85 BNS. Accordingly, Ms. Borah also submitted that the learned Trial Court had rightly passed the order considering all circumstances of the case and further the Court is not to go for enquiry or trial at the time of framing charge. Only prima facie case is required to be established at the time of framing charge and hence, the learned Trial Court had rightly rejected the prayer for discharge and there is no need of any interference in the order passed by the learned Trial Court. Further, it is not at all a fit case to quash the impugned order, the charge sheet and the entire criminal proceeding by invoking the power under Section 528 BNSS.

10. Heard the submissions made by the learned counsel for the parties and I

have also perused the case record and the TCR.

11. It is the basic contention of the petitioner that there is no evidence against the present petitioner that he inflicted torture on the victim/respondent No.2, or ever demanded any dowry to establish a case under Section 85 BNS. Further, it is the case of the petitioner that there is no medical evidence to support the case of the prosecution and at the same time, from the charge sheet also it reveals that police did not find any external injury on the body of the victim/respondent and there is no evidence of physical torture was also found during investigation. Basing on those circumstances, it is submitted by the learned counsel that there is no material to establish a case under Section 85 BNS against the present petitioner. He accordingly filed a prayer for his discharge before the learned Trial Court but the same was rejected only with the observation that the statement made by the victim is corroborated by the statement made by the witnesses under Section 161 CrPC.

12. On the other hand, it is the case of the respondents that she was subjected to mental and physical torture in demand of dowry and the witnesses also supported the case of the prosecution to that extent. It is also the case of the respondent that there may not any external physical injury during the examination of the victim, but from the statement made by the witnesses as well as the victim, it clearly reveals tht she was subjected to mental torture, which also attracts "cruelty" under Section 85 BNS to establish a case against the present petitioner.

13. On plain reading of the FIR, it reveals that there is sufficient materials brought against the present petitioner and it is also described as to how she was subjected to physical torture also on the date of the incident. From the statement made by the witnesses it also reveals that after being informed to her

family members, they immediately came and took her to police station and wherefrom she was immediately taken for medical treatment, however, the Dr. did not find any external injury on the person of the respondent No.2, but she was referred for OPD for further treatment.

14. Though it is submitted by Mr. Rafique that there is no evidence of any torture on demand of dowry, but on perusal of the statement made by the witnesses, it is alleged that she was subjected to mental and physical torture in demand of dowry. More so from the submissions made by the learned counsel for the petitioner as well as from the annexures filed along with the petition, it reveals that she in earlier occasion also lodged the FIR claiming torture on her, but those FIRs were subsequently withdrawn by her as there was some settlement between the parties. But withdrawal of the earlier FIR or settlement between the parties does not establish that she was not subjected to mental or physical torture in demand of dowry, rather, it reveals that due to the torture on her she was bound to lodge cases against the petitioner, though, subsequently they arrived at a settlement and those FIRs were not acted upon by the investigating agency. However, there is no explanation made by the petitioner as to what make her bound to leave her matrimonial house along with her minor children. At the same time, it is seen that the FIR reveals a prima facie case against the present petitioner and at the same time, the statement made by the witnesses under Section 161 CrPC also establishes prima facie a case against the present petitioner to frame charge under Section 85 BNS. Thus, there found no illegally or irregularity committed by the learned Trial Court while rejecting the prayer for discharge made by the petitioner.

15. At the same time, considering all the materials in the FIR, charge sheet as well as the statements of the witnesses, it is seen that there is prima facie

material against the present petitioner to proceed with the case further and hence, it is not at all a fit case to quash the order dated 02.04.2026, passed by the learned SDJM (M), Hojai in connection with PRC Case No. 2126/2025, whereby the prayer for discharge made by the present petitioner was dismissed and the Charge Sheet No. 269/2025 dated 31.10.2025 including the subsequent criminal proceeding by invoking the inherent jurisdiction under Section 528 BNSS.

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

JUDGE

Comparing Assistant