

GAHC010186632025



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

Case No. : Crl.Pet./1030/2025

SRI DEVENDRA KUMAR YADAV
S/O LATE BISHNUDEB YADAV,
R/O VILL- SAGOLIA PART-3, P.O. SAGOLIA, P.S. GOLAKGANJ
DIST. DHUBRI, ASSAM,
PIN-783335.

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE PP, ASSAM

2:THE DIVISIONAL FOREST OFFICER

CACHAR DIVISION

CLUB ROAD
NEAR D.C. OFFICE P.S. SILCHAR
SILCHAR
DIST. CACHAR
ASSAM
PIN-788001.

3:THE FOREST RANGE OFFICER

DHOLAI FOREST RANGE OFFICE AT DHOLAI
P.O. AND P.S. DHOLAI

DIST. CACHAR
ASSA

Advocate for the Petitioner : MR. I HAQUE,

Advocate for the Respondent : PP, ASSAM, SC, FOREST, SC, FOREST

**BEFORE
HONOURABLE MR. JUSTICE PRANJAL DAS**

JUDGMENT

Advocate for the petitioner : *Mr. I Hoque,*

Advocate for the respondents
: *Mr. I. Borthakur, SC, Forest*

Department

Date on which judgment is reserved : **04.04.2026**

Date of pronouncement of judgment : **27.04.2026**

*Whether the pronouncement is of the
operative part of the judgment ?* : **N/A**

*Whether the full judgment has been
pronounced?* : **Yes**

JUDGMENT & ORDER (CAV)

Heard Mr. *I Hoque*, learned counsel for the petitioner. Also heard *Mr. I. Borthakur*, learned Standing Counsel, Forest Department.

2. The petitioner, namely **Devendra Kumar Yadav**, has invoked the provisions of Section 528 BNSS, aggrieved by the continued detention of a vehicle, in the nature of a truck bearing registration number NL-01-K-5990, which was seized by the forest authorities in connection with OR No. DH/5 of 2018-19 DVL/64 of 2019-20. The petitioner is also aggrieved by the non-completion of investigation despite the lapse of several years.

3. Before proceeding further, the facts may be noticed. The Personnel of Assam Forest Protection Force and Lailapur Beat were on patrol duty at Lailapur NH-54 on 12.08.2018, during which a truck bearing registration number NL-01-K-5990 coming from Mizoram was intercepted and checked. The vehicle was found loaded with teak log, but it was found to be doubtful, whereupon the vehicle was brought to the Range HQ, Dholai and logs were verified.

4. Upon such verification, major discrepancies were found in respect of the length and girth of the logs vis-à-vis the transit pass and most of the logs were found unmarked and indistinct. Consequently, the vehicle was seized and notice was issued to the petitioner, stated to be the owner of the vehicle, to produce within 30 days, the legality and proof of origin of the forest produce. The matter was also informed to the respondent No. 2, (DFO, Cachar) who also the learned CJM, Cachar and the Range Forest Officer, Hawaithang Range, Dholai.

5. The vehicle in question was confiscated under the provisions of Section 49(4) of the Assam Forest Regulation, 1891, (hereinafter, The Regulation). Section 49 of the Regulation provides for seizure of property liable to confiscation and the procedure to be followed for such seizure is laid down in the Regulation itself. The seizure of the truck was made vide order dated 17.01.2020, passed by the Authorized Officer - Divisional Forest Officer Cachar, in Offence Case No. DH/5 of 2018-19, DVL 64/2019-20.

6. The Confiscation Order stated about confiscation of the seized teak

logs to the State of Assam and also confiscation of the vehicle in question to the State of Assam. Aggrieved by the said order of confiscation of the vehicle, the petitioner preferred an appeal under Section 49C of the Regulation before the Court of the Learned District Judge, Cachar and which was posted for disposal before the Court of the Learned Additional District Judge, Cachar. The learned Appellate Court, vide Judgment and order dated 07.03.2022, was pleased to dismiss the appeal, thereby upholding the Order of Confiscation dated 17.01.2020, passed by the learned DFO, Cachar Division, Silchar, as Authorized Officer.

7. In Para 18 of the appellate judgment, the learned Appellate Court held, *inter alia*, that though the Authorized Officer was justified in passing the order of confiscation of the seized vehicle, but the said confiscation was of a temporary nature. The petitioner, aggrieved by the adverse appellate judgment, brought the matter before this Court by way of a criminal revision, being Criminal Revision Petition No. 174 of 2022. The said criminal revision was disposed of, vide judgment and order dated 30.08.2022 passed by this Court. The Revisional Court also did not find merit in the case of the petitioner and it upheld the appellate judgement and order of the Learned Additional District Judge, Cachar, Silchar and thereby, the Order of Confiscation dated 17.01.2020, passed by the learned DFO, Cachar Division, Silchar in Offence Case No. DH/5 of 2018-19, DVL 64/2019-20. The petitioner, thereafter, knocked the doors of the Hon'ble Supreme Court by filing SLP (Crl.), being SLP (Crl.) No. 2913/2023, which however was dismissed, vide order dated 07.11.2023.

8. Thus, the order dated 17.01.2020, passed by the Forest Authority,

confiscating the vehicle of the petitioner, attained finality in that manner. Apart from this petition, the petitioner has filed an additional affidavit, bringing on record the certified copies of the Appellate Judgment, the Revisional Judgement and the Order passed by the Hon'ble Apex Court in the SLP. It is stated by the petitioner that he submitted a representation dated 28.06.2024, before the learned DFO, Cachar, seeking information about the outcome of the criminal investigation with regard to the aforementioned forest case and as to whether charge-sheet or final report has been filed in the matter. However, it is contended by the petitioner that despite the lapse of six years, since the initiation of the case, he did not get any response to the said communication.

9. The petitioner states that he had also filed a representation dated 25.06.2025, before the said Forest Authority, praying for the withdrawal of the pending Forest Offence case against him, in terms of the Notification No. E-217405/52 dated 21-10-2022 and another notification being Notification No. E-217405/112 dated 20.09.2024, issued by the Government of Assam regarding withdrawal of certain categories of cases. However, the petitioner did not get any positive response on the same, and accordingly, came before this Court with this criminal petition, invoking the provisions under Section 528 BNSS.

10. Mr. I. Hoque, the learned counsel for the petitioner, submits that the vehicle in question was seized eight years back and till date, no final outcome of the criminal investigation has been submitted, thereby, causing prejudice to him. The learned counsel for the petitioner also submits that the confiscation made by the Forest Authority is also subject to the outcome of the criminal proceeding, which has been pending for

several years, and as a result of the same, he has been deprived of his vehicle over this long period. It is also submitted by the learned counsel that as per the law laid down by the Hon'ble Supreme Court, long delay in completion of investigation could be a ground for quashing of the criminal proceedings. Another limb of submissions made by the learned counsel for the petitioner is that, the offense in question would fall within the ambit of the scheme of the Government of Assam, incorporated in the aforesaid two notifications regarding withdrawal of cases, and that, in similar matters such withdrawal has been made, pursuant to which the owner of the vehicle has been able to get back the vehicle.

11. In support of the same, he has referred to a decision of this Court rendered on 09.06.2025 in Criminal Petition No. 572 of 2025. In that case also, the vehicle of the petitioner's father was confiscated by the DFO, Cachar, but in the meantime, the case has been withdrawn in terms of the notification and the accused discharged. In such a factual situation, this Court directed the Forest Authority to hand over the vehicle in question to the legal heir of the petitioner, as the petitioner in that case had expired in the meantime, and the petitioner who was the son of the deceased owner, in that case, was directed to apply for transfer of ownership immediately.

12. In support of his contentions, the learned counsel for the petitioner relies on the following decisions:-

**(i) *Sambhu Saha Vs. The State of Assam & Ors. (2012)*
*GAU- AS-115,***

(ii) *Robert Lalchungnunga Chongthu @ R L Chongthu Vs. State of Bihar in 2025 LiveLaw (SC) 1128,*

13. Mr. I. Borthakur, learned Standing counsel for the Forest Department submits that the confiscation of the vehicle has attained finality, and it cannot be released in favour of the petitioner. The department, however, has not filed any affidavit. Nevertheless, Mr. Borthakur, the learned counsel for the Forest Department, looking after forest offences, submits that while Section 51 of The Regulation provides for confiscation of property upon conviction of an accused in a forest offence; on the other hand, Section 49 provides for a different and parallel process of confiscation of property, which as per the Forest Authority is involved in a forest offence. The said provision it is submitted, also provides for an appellate forum under Section 49C of the Regulation.

14. The learned counsel for the Department submits that he has not received instructions about completion of the criminal investigation into the alleged forest offence, but with regard to the confiscation, he reiterates his contention that the said confiscation was by invoking of the parallel provision incorporated in Section 49 of the Regulation.

15. In support of his contentions, the learned Standing Counsel for the Forest Department has relied upon the following decisions:-

(i) Deep Kumar Vs. State of Assam in 2022 SCC OnLine Gau 1248

(ii) Divisional Forest Officer and Another Vs. G.V. Sudhakar Rao and Ors. (1985) 4 SCC 573,

(iii) State of Madhya Pradesh and Ors. Vs. Kallo Bai (2017) 14 SCC 502,

(iv) Deep Kumar Vs. State of Assam & Anr. in SLP (Crl.) No. 3131/2023.

16. I have gone through the materials on record and considered the rival submissions. I have also perused the decisions cited at the Bar.

17. Before proceeding further, the provisions of Sections 49 and 51 of the Regulation may be reproduced here in below:-

[49]. Seizure of property liable to confiscation- (1) When there is reason to believe that a forests offence has been committed in respect of any forest produce' such produce, together with all tools, boats, motorised boats, vessels, cattle, carts rafts, machineries vehicles, trucks, ropes chains or any other implements' articles or materials used in the Commission of such offence may be seized by' any Forest Officer not below the rank of a Forester or and Police Officer not below the rank of a Sub-inspector of Police.

(2) Every Officer seizing any property under subSection(1), shall place on such property or the receptacle, if any, in which it is contained, a mark indicating that the same has been so seized and shall, as soon as may be, either produce the property seized before an officer not below the rank of Assistant Conservator of Forests authorised by the State Government in this behalf by notification in the Official Gazette (hereinafter referred to as the 'Authorised Officer') or in case the seizure is made by a Police Officer' making a report to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made with an intimation to the 'Authorised Officer' or where it is, having regard to the quantity or the bulk or any other genuine difficulty, not practicable to produce the property seized before the 'Authorised Officer' or where it is intended to launch prosecution against the offender, immediately make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made. Provided that where the forest produce with respect to which such offence is believed to have been committed is the property of the Government and the offender is unknown it shall be sufficient if the officer makes, as soon as may be, a report of the circumstance to his official superiors. (3) Any Forest Officer or Police Officer may, if he has reason to believe that a vehicle has been or is being used for the transport of any forest produced in respect of which any forest offence has been committed, require the driver or any other person or persons in charge

of such vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle and inspect all relating to the goods carried, which are in possession of such driver or other person in charge of the vehicle.

(4) Subject to the provisions of sub-Section(5) and (6), where the Authorized Officer upon production before him of the property seized or upon receipt of a report about seizure, as the case may be, and after such personal inspection or verification as he may deem fit and necessary, satisfied that a forest offence has been committed in respect thereof, he may by order in writing and for reasons to be recorded therein, confiscate the forest produce so seized together with all tools, vehicles, cattle, trucks, motorized boats, boats, carts, machineries, vessels, ropes, chains or any other Seizure of property liable to confiscation implements of articles used in committing such offence. A copy of the order of confiscation shall, without any undue delay, be forwarded to the conservator of Forests of the circle in which the forest produce has been seized and the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

(5) No order confiscating any property shall be made under the preceding provisions unless the Authorized Officer :-

a) sends an intimation in the prescribed form about the initiation of the proceeding for confiscation of property to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made;

b) Issue a notice in writing to the person from whom the property is seized, and to any other person who may appear to the Authorized Officer to have some interest in such property and in case of motorized boats, vessels, vehicles, trucks etc having a registered number to the registered owner thereof ;

c) Affords to the persons referred to in clause (b) above a reasonable opportunity of making a representation within, such reasonable time as may be specified in the notice, against the proposed confiscation ; and

d) Gives to the officer effecting the seizure and the person or persons referred to in clause (b) or (c) above a reasonable opportunity of being heard on a date

or dates to be fixed for the purpose.

(6) Notwithstanding anything contained in the foregoing provisions, no order of confiscation under subSection(4) of any tools, boats, motorized boats, vessels, cattle, carts, rafts, machineries, vehicles, trucks, ropes, chains or any other implements, articles (other than timber or forest produce) shall be made if any persons referred to in clause (b) of sub-Section(5) proves to the satisfaction of the Authorized Officer that such tools, vehicles machineries, trucks, vessels, boats, motorised boats, vessels, carts, rafts, cattle, ropes, chains or any other implements, articles were used without his knowledge or connivance or abetment or as the case may be- without the knowledge or connivance or abetment of his servant or agent and that all reasonable and due precautions had been taken against the use of the object aforesaid for the commission of the forest offence.]

51. Forest produce, tools, etc., when liable to confiscation-(1) When any person is convicted of a forest offence, all forest produce which is not the property of the [Government] and in respect of which such offence has been committed, and all tools, boats carts and cattle used in the commission of such offence, shall be liable, by order of the convicting Court, to confiscation. (2) Such confiscation may be in addition to any other punishment prescribed for such offence.”

(Emphasis Supplied)

18. Upon perusing these provisions, one finds that Section 51 comes into play upon conviction of a person for a forest offence - whereafter, the criminal Court can direct confiscation of the property. On the other hand, Section 49(4) is a kind of administrative confiscation by empowered Forest Officials of property suspected to be involved in forest offences. The exercise of the said power is subject to conditions, such as giving the information to the concerned learned Magistrate and also giving an opportunity to the owner of the property to make out grounds, if any, that the offence was committed without his knowledge.

19. Thus, it is clear that there are two kinds of confiscation of property

envisaged under the Regulation. Administrative confiscation under Section 49(4) and confiscation directed by Criminal Court upon conviction envisaged under Section 51. Now the most important question is whether the confiscation under Section 49 of the Regulation is a final nature or whether it is of a temporary nature pending outcome of the case before the criminal Court.

20. The learned counsel for the Forest Department has contended that these two parallel confiscation paths are mutually exclusive and once a confiscation is made in exercise of powers under Section 49, the same would not depend upon any outcome of a criminal proceeding before the Criminal Court. In other words, it is contended that confiscation under Section 49(4) and Section 51 of the Regulation are independent of each other. It appears that the said question has already been addressed by this Court in earlier decisions. Thus, in ***Jogeshwar Borah v. State of Assam and others*** reported in **(2006) 03 GLT 162**, this Court in Para-5 has held that the confiscation of the property ordered by the Authorized Officer under Section 49 must be understood to be a confiscation under Section 49 and the same has been held to be a temporary stage. The relevant Para-5 may be reproduced herein below:-

“(5) That the petitioner is not involved in any forest offence is a fact, which is not disputed. It is only the vehicle of which the petitioner is the registered owner, that is involved in a forest offence. Admittedly and evidently, the trial of the offence in connection with which the truck of the petitioner is involved has not come to an end, and, therefore, no order of confiscation under regulation 51 and consequential appropriation of such property in the name of the state have occurred. The confiscation of the property ordered by the

Authorized Officer, therefore, must be understood by the Court to be confiscation under Regulation 49 of the regulations, which is a temporary stage. In such a situation, when the truck is the source of livelihood of the petitioner, it is difficult to visualize as to why it should have been retained beyond a reasonable time. In the circumstances noted above, the continued confiscation or retention of the truck of the petitioner must be held by the Court to be wholly without authority of law and this Court must also hold that the concerned authorities at all levels have failed to exercise their quasi judicial discretion vested by the provisions of the forest Regulations in a fair and unbiased manner.”

21. Similarly, in **Jaminur Rahman v. State of Assam (2016) 01 GLR 136**, this Court again addressed the issue and after referring to **Jogeshwar Borah (supra)** and another earlier decision, **Nathuni Singh Vs. Deputy Commissioner and Ors. 1999 (3) GLT 604** agreed with the said position of law that order of final confiscation can be passed only under Section 51 of the Regulation and confiscation by Authorized Officer under Section 49 is a temporary measure. The relevant Para-8 of **Jaminur Rahman (supra)** may be reproduced herein below:-

“8. In Jogeswar Bora v. State of Assam, 2006 (3) GLT 162, this court held that order of final confiscation can be passed only under section 51 of the Forest Regulation by the Magistrate and the confiscation of the seized property by the authorized officer under Regulation 49 is a temporary measure. In Nathuni Singh v. Deputy Commissioner, 1999 (3) GLT 604, this court while interpreting section 51 of the Forest Regulation clarified that only when the vehicle owner is convicted for the forest offence, confiscation of the vehicle under section 51 can be justified.”

22. In yet another decision being **Sambhu Saha v. State of Assam and others** in **WP(C) 6690/2005**, the Court examined Sections 49

and 51 and held that though the word confiscation has been used in Section 49, these are misnomer as Section 49 provides for a stage prior to confiscation and that the confiscation is visualized only in Section 51 upon conviction of a person of a forest offence. Referring to **Jogeshwar Bora (Supra)**, the Court reiterated the position that confiscation under Section 49 is of temporary nature. In Para-25, the Court held that as confiscation of property by authorized Forest Official under Section 49 is of a temporary nature - therefore, in that case, the Forest Authority exceeded its jurisdiction by ordering confiscation of the vehicle to State.

23. In **Sambhu Saha** (supra), the Court held that the continued confiscation and retention of the petitioner's truck was wholly illegal and unjustified as the State Counsel could not say as to whether there is any order of conviction and confiscation under Section 51 by any Court. The Court directed the release of the truck. The relevant paragraph nos. 17, 18, 19, 20, 21, 22, 25 and 28 may be reproduced herein below:-

“17. Regulation 49 provides for seizure of property liable to confiscation. The procedure to be followed for seizure of property is laid down in the said Regulation. Though the words confiscation, confiscating and confiscated have been used in Sub Regulations (4) and (5) of Regulation 49, those are really a misnomer inasmuch as Regulation 49 provides for a stage prior to confiscation. As already noticed, it provides for seizure of property liable to confiscation. Such a confiscation is visualized in Regulation 51 which provides that when any person is convicted of a forest offence, all forest produce which is not the property of the Government and in respect of which such offence has been committed, and all tools, boats, carts and cattle used in the commission of such offence, shall be liable, by order of the convicting Court, to confiscation.

18. Examining the scope of Regulations 49 and 51 of the Regulation, this Court in the case of Jogeswar Borah (supra) held that confiscation under Regulation 49

is of a temporary nature. In that case, no order of confiscation under Regulation 51 was passed and there was no consequential appropriation of property in the name of the State. In such circumstances, the Court held that the confiscation of property ordered by the Authorized Officer should be understood to be confiscation under Regulation 49 of the Regulation which is a temporary stage.

19. In the present case, admittedly, the order of confiscation is under Regulation 49 (4) of the Regulation.

20. Learned State counsel is unable to say as to whether or not there is any order of conviction and of confiscation under Regulation 51 by any Court.

21. The fact that the petitioner is not involved in any forest offence is not disputed. It is only the vehicle of which the petitioner is the registered owner, that is involved in a forest offence. As noticed above, the learned State counsel is unable to inform the Court about the stage of trial under Regulation 51. Apparently, no order of confiscation under Regulation 51 has been passed.

22. In such circumstances, considering that confiscation under Regulation 49 is of temporary nature, the question which arises for consideration is whether the respondents more particularly the Respondent No.3 is justified in retaining the vehicle of the petitioner for such a long period i.e. from 23.2.2004 till date i.e. for more than 8 years.

25. Moreover, considering that confiscation of property by the Authorized Officer under Regulation 49 is of a temporary nature, the Respondent No.3 clearly exceeded his jurisdiction when he ordered confiscation of the vehicle to the State.

28. In view of the discussions made above, the continued confiscation/retention of the petitioner's truck is considered wholly illegal and unjustified. Therefore, the petitioner is entitled to have his truck released forthwith. Accordingly, the impugned orders dated 5.2.2005 and 30.6.2005 are hereby set aside and quashed. The petitioner's vehicle bearing registration No.AS-18/1305 be immediately released to him, subject to furnishing undertaking by the petitioner for production of the vehicle before any Court, if so required."

24. The learned counsel for the respondent has relied upon the decision

in ***Deep Kumar vs. State of Assam and another***, where the Honorable Supreme Court referred to the case of ***State of Karnataka vs K. Krishnan 2000 7 SCC 80***, wherein, it was held that when a vehicle is seized on allegation of being involved in a forest offence, the same shall not be normally returned till culmination of all proceedings in respect of such offence.

25. In **Kalu Bhai** (supra) and **G. V. Sudhakar Rao** (Supra), the Court was adjudicating similar parallel provisions for confiscation under the Forest Laws of Madhya Pradesh and Andhra Pradesh and the Court held that Section-15 of the Madhya Pradesh Act gives independent power of confiscation to Authorized Officer even prior to establishment of guilt by a criminal Court.

26. Similarly, with regard to the Andhra Pradesh Act also, it was held in **G. V. Sudhakar Rao** (supra) that these criminal proceedings and proceedings by Forest Authority can be pursued simultaneously. However, in view of the clear position of law enunciated by as many as three coordinate Benches of this Court and the matter not having been taken to the Honourable Apex Court and not returned there from with a contrary position - the aforesaid decisions pertaining to the Forest Laws of Madhya Pradesh and Andhra Pradesh would not be of help to the department, in this case.

27. Now, it is also true that the administrative confiscation initiated by the DFO Cachar was taken up in appeal to the Court of the District Judge Cachar, who was pleased to dismiss the same and the subsequent revision before this Court followed by the SLP before the Honourable Supreme Court were also dismissed - thereby, giving legal finality to the

decision of the Authorised Officer - even if it constitutes a temporary measure in terms of the law laid down by this Court in **Jaminur Rahman (supra)**, **Jogeshwar Borah (supra)** and **Sambhu Saha (supra)**. As already stated earlier, the department has not filed any affidavit-in-opposition, and the learned counsel for the Forest Department has not submitted that investigation has been completed and it appears that the criminal proceeding pertaining to the alleged forest offence in which the petitioner's vehicle was seized is still not completed, though it was initiated in 2018 itself, thereby spanning a period of more than seven years. In this regard, the decision relied upon by the petitioner's side in **Robert Lalchungnunga Chongthu @ R L Chongthu (supra)** may be seen. In the said decision, the Honourable Apex Court has reiterated the settled position of law that the right to speedy investigation is a facet of Article 21 of the Constitution of India. A very important principle laid down in **Robert Lalchungnunga Chongthu @ R L Chongthu (Supra)** is that if investigation into a particular offence continues for a period that appears to be unduly long without adequate justification, then the complainant shall be at liberty to invoke the provisions under Section 528 BNSS/482 Cr.P.C, seeking an update on investigation and the accused can also invoke such provisions for quashing of the investigation. However, the Honourable Apex Court clarified that the quashing of such a proceeding can be done so, on the ground of delay in completion of investigation as one of the grounds and that the Court will have to see the other grounds as well. The relevant Para 21 may be reproduced herein below:-

“21. Before parting with this matter, we deem it fit to issue the following directions:

(i) In view of **Vinay Tyagi v. Irshad Ali 27**, it can be seen that the 'leave of the court' to file a supplementary charge-sheet, is a part of Section 173(8) Cr.P.C. That being the position, in our considered view, the Court is not rendered functus officio having granted such permission. Since the further investigation is being made with the leave of the Court, judicial stewardship/control thereof, is a function which the court must perform.

(ii) Reasons are indispensable to the proper functioning of the machinery of criminal law. They form the bedrock of fairness, transparency, and accountability in the justice system. **If the Court finds or the accused alleges (obviously with proof and reason to substantiate the allegation) that there is a large gap between the first information report and the culminating charge-sheet, it is bound to seek an explanation from the investigating agency and satisfy itself to the propriety of the explanation so furnished.**

The direction above does not come based on this case alone. This Court has noticed on many unfortunate occasions that there is massive delay in filing charge-sheet/taking cognizance etc. This Court has time and again, in its pronouncements underscored the necessity of speedy investigation and trial as being important for the accused, victim and the society. However, for a variety of reasons there is still a lag in the translation of this recognition into a reality. (iii) While it is well acknowledged and recognized that the process of investigation has many moving parts and is therefore impractical to have strict timelines in place, at the same time, the discussion made in the earlier part of this judgment, clearly establishes that investigations cannot continue endlessly. The accused is not out of place to expect, after a certain point in time, certainty- about the charges against him, giving him ample time to preparing plead his defence. **If investigation into a particular offence has continued for a period that appears to be unduly long, that too without adequate justification, such as in this case, the accused or the complainant both, shall be at liberty to approach the High Court under Section 528 BNSS/482 Cr.P.C, seeking an update on the investigation or, if the doors of the High Court have been knocked by the accused, quashing. It is clarified that delay in completion of investigation will only function as one of the grounds, and the Court, if in its wisdom, decides to entertain this application, other grounds will also have to be considered.**

(iv) Reasons are not only important in the judicial sphere, but they are equally essential in administrative matters particularly in matters such as sanction for they open the gateway to greater consequences. Application of mind by the authorities granting or denying sanction must be easily visible including consideration of the evidence placed before it in arriving at the conclusion.

Pending application(s) if any, shall stand(s) disposed of.”

28. In an instant case, though the administrative confiscation by the authorised officer invoking Section 49 has attained legal finality, but in terms of the law laid down by this Court in the aforesaid three decisions of ***Jaminur Rahman (supra)***, ***Jogeshwar Borah (supra)*** and ***Sambhu Saha (supra)*** - the same is of a temporary nature and it awaits the outcome of the criminal proceeding and only in the event of criminal proceeding resulting in a charge-sheet, followed by trial, culminating in conviction – that a final order of confiscation under Section 51 of the Regulation can be passed.

29. As already stated, the investigation is stated to be not yet completed despite the elapse of more than seven years. The petitioner has also prayed before the Forest Authority to avail benefit of the Notifications dated 21.10.2022 and 20.09.2024 issued by the Government of Assam for withdrawal of cases. The category of cases enumerated in the said notification may be reproduced herein below:-

*“GOVERNMENT OF ASSAM-
JUDICIAL DEPARTMENT :: JUDICIAL BRANCH
DISPUR :: GUWAHATI-G
NOTIFICATION*

Dated Dispur, 21 October, 2022

No. E-217405/52: Pursuant to Cabinet decision dated 11.09.2022 regarding withdrawal of petty/minor criminal cases pending in subordinate Courts throughout the State of Assam by

invoking Section 321 CrPC, 1973, the Governor of Assam is pleased to Issue this detailed Standard Operating Procedure [SOP] to be followed by all concerned.

Introduction

There are more than 4.5 Lakhs of cases pending in varioos subordinate courts in Assam, of which the criminal cases alone comes to more than 3.5 lakhs. The huge pendency of cases has over burdened the court in Assam and has been causing back log resulting in delay of disposal of cases which ultimately has financial and social hardship to the litigant citizens. The pendency as on 30.06.2022 is 3,66,342 criminal cases and 91,385 civil cases.

Background

*As per National Judicial Data Grid, there are **more than three crore** Criminal cases pending across the country. Of late there has been a call to bring down pendency of cases in courts both by the Centre and the States and even the law Ministry has drawn a litigation policy and asked the States to review all the pending litigation. Even the Issue of reduction in pendency of cases found figured in the discussion in the Conferences of the Hon'ble Chief Justices and Hon'ble Chief Ministers held from time to time. During the Chief Justices Conference held on 29th April, 2022 in respect to item no.3 it was discussed that there was an increases in cases by 54.64% since 01.07.2016 from 2.65 crore to 4.11 crore whereas the Increase of Judicial officers is only 16% during this period.*

The need is to do away with the undue delay in bringing logical condusion in adjudication of cases thereby ensuring the Fūridamental Rights of speedy trial and faster delivery of Justice to the Citizen as guaranteed by the Constitution of India.

The Govt. of Assam vide notification no. HMA.19011/50/2017-Political (A)/eCF-6524/145 dated 12.07.2022 has constituted a comfilttee to be headed by the Principel Secretary to the Govt. of Assam to look into the matter and bring out a policy for disposal of pending petty cases. After due deliberation, the sald committee in its meeting dated 14.07.2022 has resolved to go for withdrawal of minor/petty cases and dedded the basic criteria for identification of cases providing punishment up to 3 years/fine excluding certain category of cases falling within this criteria. Accordingly, the sald committee decided to go for withdrawal of cases where ponishment is up to 3 years or fine or both under the India Penal Code or any other spédal Act/Acts except the following category of cases.

- i.. Molestation/ Sexual Assault/POCSO Act.*
- ii. Corruption /embezzlement of public fund.*
- iii. NDPS Act.*
- Iv. Arms Act/Explosive substance Act.*
- v. Cases registered under Section 498(A) IPC and other cases related to dowry.*
- vi. 304 A IPC/Vehicle theft cases U/S 379 IPC.*
- vii. Offence relating to coins and Government stamp/Currency.*
- viii. Unlawful Activities (P) Act.*
- ix. Organized Crimes like cattle smuggling/supari smuggling/coal smuggling/oil theft etc.*
- X. Cases against MPs & MLAs.*

OBJECTIVE BEHIND THIS LITIGATION POLICY

- i. This exercise will reduce the burden of pendency of cases in courts which in turn will facilitate the courts to devote more time for serious offences, old pending cases and other cases ensuring timely justice.*
- ii. It will also provide time to the Public Prosecutor/ Additional Public Prosecutor/Assistant Public to properly prepare the other cases and assist the court judiciously.*
- iii. The proposed action will help in decongestion of the jails by way of release of the Under Trial Prisoners who are accused in the aforesaid petty/minor cases.*
- iv. Large number of witnesses of these cases, will be benefitted, as the wage earners need not have to forgo their dally wages, no hampering official duties in respect of official witnesses [police/doctors/forensic experts etc.], or personal engagement of witnesses other than the monetary expenses incurred by them.*
- v. The proposed action will ensure Right to Speedy Trial etc. as envisaged under Article 21 of the Constitution of India.*

Accordingly, the Govt. of Assam has collected data from the Hon'ble Gauhati High Court which reveals that there are about 1,19,512 number of cases registered upto 14.08.2022

which can be withdrawn in respect of the above category of cases. Out of 119512 cases, the cases falling under the Section 498 A IPC (pertaining to cruelty to women) and Dowry cases will be excluded.

State Cabinet has approved this proposal for withdrawal of cases in its meeting dated 11.09.2022 along with the SOP.”

30. Thus, clearly, a forest offence like the instant one is not excluded by that notification from being withdrawn. In the decision of this Court in **Gaurav Pandey v. State of Assam and others** in Criminal Petition No. 572 of 2025, relied upon by the petitioner side, with regard to a similar forest offence, resulting in C.R. Case No. 4 of 2019, before the learned Addl. CJM, Cachar - the case was withdrawn and on the basis of such development, this Court was pleased to direct release of the vehicle. The relevant paragraphs-4, 6 and 12 of the said order may be reproduced herein below:-

“4. It is submitted on behalf of the petitioner that as the case was withdrawn and the petitioner has been discharged, the vehicle which has been confiscated by the DFO, Cachar, Silchar, can be handed over to the registered owner of the vehicle. The alleged accused, Sri Deep Kumar, who is the registered owner, has passed away and his death certificate has been marked as Annexure-A of the petition.

6. Learned Standing Counsel, Forest Department, has admitted that the case was already withdrawn and the alleged accused was discharged of the offence under Section 41 of the Assam Forest Regulation Act, in connection with CR Case No. 404/2019.

12. It appears that an order may be passed to hand over the vehicle in zimma of the legal heir of the deceased accused. Therefore, the DFO, Cachar, at Silchar is directed to hand over the vehicle to the petitioner, under the condition that the petitioner executes an undertaking that the petitioner will immediately apply for transfer of ownership of the vehicle,

before the appropriate authority.”

31. In the instant case, the investigation into a Forest offence has not been completed despite the elapse of more than seven years. The same is undoubtedly an unduly long period for the purpose of such an investigation. The department has also not given any reasons for non-completion of such investigation, despite the elapse of a considerable period.

32. Moreover, a similar case has been withdrawn, as revealed by the order dated **09.06.2025** passed in Criminal Petition **572 of 2025**, discussed above. Therefore, in terms of the principles laid down by the Honourable Apex Court in ***Robert Lalchungnunga Chongthu @ R L Chongthu*** (supra), this Court takes note of the undue delay in completion of investigation vis-à-vis the rights of the accused under Article 21 of the Constitution and also takes note of withdrawal of similar case purportedly in terms of the notification of the Government of Assam as submitted by the learned counsel for the petitioner and not disputed by the other side.

33. In any case, in terms of Section 62 of the Regulation, offences under the Assam Forest Regulation, 1891 are compoundable at the instance of the Forest Authority. Therefore, I am of the considered view that in terms of the principles laid down in ***Robert Lalchungnunga Chongthu @ R L Chongthu*** (supra), the criminal proceedings can be quashed and such a course of action would not also prejudice the department, especially when the petitioner has already been deprived of his vehicle for as long as seven years. Accordingly, in the circumstances and in the backdrop of the above discussion - the criminal proceedings pertaining to offence report No. OR No. **DH/5 of 2018-19 DVL/64 of 2019-20** are hereby

quashed.

34. Further, the Authorised Officer/Divisional Forest Officer, Cachar Division, Cachar, Silchar is directed to do the needful to release the vehicle (**truck bearing registration No. NL-01-K-5990**) in favour of the petitioner upon verification and the usual formalities.

35. The instant criminal petition stands **allowed** and **disposed** of.

JUDGE

Comparing Assistant