GAHC010195902026

2026:GAU-AS:16847

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

Case No. : Crl.Pet./1576/2026

JUMMA KHAN
S/O LATE AMIR KHAN, RESIDENT OF BINNAKANDI GHAT, P.S. LAKHIPUR, DISTRICT CACHAR, ASSAM

2: SHARIF HUSSAIN BORBHUIYA
S/O- RENU BARBHUIYA
R/O- VILL- ROBARPUR GRANT
PS- LAKHIPUR CACHAR ASSAM

VERSUS

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

2:EDWARD RONGHANG
S/O- WELSON RONGHANG
R/O- ARLONGLANGSO
PS- DIPHU
KARBI ANGLONG ASSAM

Advocate for the Petitioner : MR. R BORA,
Advocate for the Respondent : PP, ASSAM,

BEFORE

HON'BLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

16.11.2026

Heard Mr R Bora, learned counsel for the petitioners. Also heard Ms S H Bora, learned Additional Public Prosecutor for the State of Assam.

2. By this application filed under Section 528 of the BNSS, 2023, the petitioners have challenged the proceedings initiated vide PRC Case No. 71/2025, arising out of Baithalangso PS Case No. 12 of 2025, registered under Sections 61(2)/318(4)/308(2)/308(4)/351(3) of BNS, 2023, pending before the Court of JMFC, West Karbi Anglong, Hamren. The petitioners have also challenged the FIR being registered as mentioned above, as well as the Charge Sheet dated 31.08.2025, submitted against the petitioners as well as the order dated 15.11.2025, passed by the learned JMFC, West Karbi Anglong at Hamren in PRC Case No. 71/2025, by which cognizance of offence was taken against the petitioners.

3. The facts of the case is that an FIR was lodged by one Edward Ronghang, stating, *inter alia,* that the petitioner No. 1 has been doing business of lending money on interest to various people without having any valid licence. He further stated that people due to their financial difficulties, take loan from the petitioner No. 1 at monthly interests @ 10% and that the petitioner No. 1 used to keep the documents like blank cheques, ATMs, bank passbooks and signed bank stamp papers from the people while granting loan on interest. It is further stated that in spite of paying interest every month, the petitioner No. 1 used to increase the interest rate from 12 % to 20 % and had extorted large sums of money from persons under threat and it is also stated despite repaying the loan, the petitioner No. 1 used to demand double the loan amount and threatened them of dire consequences, if they do not pay. The Police, on receipt of the FIR had registered the PS Case, as mentioned above. Thereafter, on completion of the investigation, the Police

had submitted charge sheet vide Charge Sheet No. 9/2025, on 31.08.2025. In the said charge sheet, it was stated that during investigation, the place of occurrence was visited and the complainant and other witnesses were examined including the victims who had stated that they borrowed money from the office of the lender, i.e., petitioner No. 1 at Baithalangso near bus-stand and the said money lender had charged them 10 % rate of interest and has been exploiting the borrowers. It is also stated therein that the petitioner No. 2 is working along with the petitioner No. 1 and have been threatening the borrowers that they should pay 10 % rate of interest. It is also stated in the charge sheet that notices under Section 35(3) of the BNSS, 2023, were issued to the petitioners and the petitioners were also examined and their statements were also recorded. In the said charge sheet, it is also stipulated that 11 numbers of loan agreements were seized, wherein it was found that in the agreement it is written that 10% rate of interest will be charged per annum, but the petitioners are stated to have charged 10% rate of interest per month from the borrowers. It is further stated that at the time of lending, various documents of the borrowers were kept with, by the petitioners and as such, a case being found established against the petitioners for offences under Section 61(2)/318(4)/308(2)/308(4), as well as Section 351(3) of the BNS, 2023, the charge sheet was submitted against the petitioners. Thereafter, it is seen that the Court of JMFC, Karbi Anglong, Hamren, on finding *prima facie* materials against the petitioners, took cognizance of the offence under the aforesaid sections of law, against the accused persons.

4. The learned counsel for the petitioners submits that the allegations made in the FIR as well as the charges mentioned in the charge sheet, reveals the only offence that is punishable is under the Money Lenders' Act, i.e., the petitioners had collected interest amount at a higher rate than it is permissible under the law. He has, therefore submitted that the offence of cheating as mentioned in the FIR as well as the charge sheet is not meted out and as such, he submits that the said FIR as well as the proceedings under the aforesaid Sections be quashed. He submits that although in the FIR, certain other allegations are made against the petitioners, but in the charge sheet none of them found place and only charges of higher rate of interest is mentioned against the petitioners.

5. On the other hand, Ms S H Bora, learned Additional Public Prosecutor submits that the ingredients of cheating as well as extortion is writ large in the FIR as well as in the charge sheet. She submits that it is specifically stated in the FIR that the rate of interest were increased from 10 to 12 % and then, to 20% and that the petitioners have extorted large sums amounting to Rs. 50,000/- to Rs. 1 lac from the persons, that too, under threat.

6. I have heard the learned counsels appearing for all the parties and I have also perused the record.

7. It is the settled position of law that a criminal case can be quashed under the inherent powers of the Court only in cases, where it is revealed that no cognizable offence is made out or there is no *prima facie* case against the petitioners. It is well

settled in ***State of Haryana vs. Bhajan Lal;*** reported in 1992 Suppl. 1 SCC 338, wherein it is held as follows:-

> "***8.1. In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given 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 channelised and inflexible kinds of cases wherein such power should be exercised:***
>
> ***(a) 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 entirety do not prima facie constitute any offence or make out a case against the accused;***
>
> ***(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;***
>
> ***(c) 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;***
>
> ***(d) 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;***
>
> ***(e) 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 the accused;***
>
> ***(f) 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;***
>
> ***(g) 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.

8.2. In the instant case, the allegations made in the complaint, do clearly constitute a cognizable offence and this case does not call for the exercise of extraordinary or inherent powers of the High Court to quash the F.I.R. itself."

A bare perusal of the aforesaid guidelines, makes it clear that in cases where the cognizable offence or a *prima facie* case is established against the petitioners, the same cannot be quashed by the High Court in its inherent jurisdiction.

8. In the instant case, it is seen that in the FIR the informant had stated that petitioners, without having any valid licence, have been lending money to the borrowers at a higher rate of interest and that the borrowers, due to their financial difficulties, had to take loan at such high rate of interest by depositing various documents to the petitioners. It is also stated that the interest rates were increased by the petitioners from 12 % to 20 % and large sums amounting to Rs. 1 lac was extorted from the people under threat. It is also stated that the petitioner had been demanding double the loan amount from the borrowers by threatening them with dire consequences. In the charge sheet too, it is stated that the witnesses have stated that they have borrowed money from the petitioner No. 1, who is assisted by petitioner No. 2, at a higher rate of interest and that the petitioners, by having an office, have been exploiting the borrowers and they have also threatened the borrowers to pay such higher rate of interest. Such statements of the witnesses amounts to extortion as well as cheating. It is also seen in the charge sheet

that the petitioners are stated to have made agreements by stipulating therein that they will charge 10 % interest per annum, but instead, they used to charge 10% interest per month from the borrowers and the said facts were not only seen from the loan agreements, but also from the statements of the borrowers. Since, *prima facie,* it appears that the case of cheating as well under the offence of extortion is made out in the instant case, this Court does not deem it fit to quash the present proceedings initiated vide PRC Case No. 71/2025.

9. As such, the present criminal petition is dismissed. No order as to cost(s).

10. Further, the aforesaid findings will have no bearing on the proceedings of the PRC case.

JUDGE

Comparing Assistant