GAHC010215462026

2026:GAU-AS:14898

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

Case No. : Crl.Pet./1397/2026

HIRON BEZBARUAH
S/O LATE GHANASHYAM BEZBARUAH, R/O WARD NO 10, MANGALDOI TOWN, P.O. AND P.S. MANGALDAI, DIST. DARRANG, ASSAM.

VERSUS

BHARGAV MANI BORAH AND 4 ORS.
S/O LATE UMESH BORA, R/O MANGALDOI TOWN, WARD NO 8, P.O. AND P.S. MANGALDAI, DIST. DARRANG, ASSAM (SPECIAL ATTORNEY HOLDER)

2:PRITISHREE DEVI
W/O LATE INDRANIL BORAH

3:NAMASHRATA KASHYAP
MINOR IS REPRESENTED BY HER MOTHER SRI PRITISHREE DEVI

4:SMTI DHIRA BORAH
W/O LATE UMESH BORAH
ALL ARE R/O WARD NO 8 MANGALDAI TOWN SALAPARA
P.O. AND P.S. MANGALDAI
DIST. DARRANG
ASSAM.

5:THE STATE OF ASSAM
REPRESENTED BY THE PP
ASSAM

Advocate for the Petitioner : MR D MAHANTA, MR T GOGOI

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 06.10.2026

Heard Mr. D. Mahanta, learned counsel for the petitioner. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor for the State respondent No. 5.

2. In this petition, under Section 528 of the BNSS, 2023, the petitioner has challenged the order, dated 05.08.2026, passed by the learned Additional Chief Judicial Magistrate, Darrang at Mangaldai, in N.I. Case No. 14/2022.

3. Mr. Mahanta, learned counsel for the petitioner, submits that the petitioner is an accused in N.I. Case No. 14/2022, and during trial, vide order dated 19.03.2024, the learned Additional Chief Judicial Magistrate, Darrang at Mangaldai ('trial Court', for short) had directed the petitioner to deposit 20% of the cheque amount within a period of 60 days, under Section 143A of the N.I. Act, in petition No. 5514/2023, filed by the respondent Nos. 1 to 4 herein. Mr. Mahanta also submits that being aggrieved, the petitioner had challenged the said order before this Court, by filing Crl.Pet. No. 852/2024, and vide order, dated 27.03.2026, a Co-ordinate Bench of this Court had set aside the order, dated 19.03.2024, by directing the learned trial Court to dispose of the petition keeping in mind the ratio laid down by Hon'ble Supreme Court in the case of **Rakesh Ranjan Shrivastava vs. The State of Jharkhand and Ors.**, reported in **(2024) 4 SCC 416**. Mr. Mahanta also submits that thereafter, the learned trial Court, vide impugned order, dated 05.08.2026, had again directed the petitioner to deposit 20% of the cheque amount without following the procedure laid down in the case of **Rakesh Ranjan Shrivastava** (supra), as

directed by this Court, in Crl.Pet. No. 852/2024, and that the learned trial Court had not recorded any finding in respect of a prima facie case. Mr. Mahanta further submits that the complaint itself is not maintainable and the learned trial Court has no power under Section 143A of the N.I. Act to direct payment of 20% of the cheque amount, and under such circumstances, he has contended to set aside the impugned order dated 05.08.2026.

4. Having heard the submission of Mr. Mahanta, learned counsel for the petitioner, this Court has carefully gone through the petition and the documents placed on record, and also perused the impugned order dated 05.08.2026, and further gone through the decision of Hon'ble Supreme Court in **Rakesh Ranjan Shrivastava** (supra) and the direction issued by a Co-ordinate Bench of this Court in Crl.Pet. No. 852/2024.

5. Notably, after perusing the impugned order, dated 05.08.2026, Mr. Mahanta, learned counsel for the petitioner was asked as to which part of the direction issued in the case of **Rakesh Ranjan Shrivastava** (supra), before granting interim compensation of 20% of the cheque amount, has not been followed by the learned trial Court, Mr. Mahanta then pointed out that the learned trial Court has not recorded existence of any prima facie case before granting the interim compensation.

6. However, perusal of the impugned order dated 05.08.2026, indicates that the learned trial Court has recorded a categorical finding that the prosecution had a prima facie case and the accused/petitioner herein during his cross-examination, as D.W.1, had admitted some part of the prosecution case, regarding issuance of the cheques and his signatures thereon, and the aforementioned finding is based upon the facts.

7. In that view of the matter, it cannot be said that the learned trial Court has not considered the direction issued by Hon'ble Supreme Court in the case of **Rakesh Ranjan Shrivastava** (supra). Mr. Mahanta, learned counsel for the petitioner has also failed to point out any infirmity or illegality in the impugned order, dated 05.08.2026.

8. Under the aforesaid facts and circumstances, this Court is of the view that no case for interference of the impugned order, dated 05.08.2026, is made out and accordingly, this petition stands dismissed at this motion stage itself.

JUDGE

Comparing Assistant