GAHC010216802026

2026:GAU-AS:15455

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

Case No. : Crl.Pet./1455/2026

SRI LUCKY LAGACHU
S/O- SHRI HEM CHANDRA LAGACHU, RESIDENT OF VILL - MAJ TEKELIFUTA, P.O. BOKULGURI, P.S. DHAKUAKHANA, DISTRICT - LAKHIMPUR, ASSAM, PIN - 787055.

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM, GUWAHATI -1

2:SMTI JUNALI DAS (INFORMANT)
D/O- SRI PRAFULLA DAS
VILLAGE - HUZGAON
P.O. P.S.- DHAKUAKHANA
DIST.- LAKHIMPUR
ASSAM
PIN-787055

Advocate for the Petitioner : MR. S K SINGHA, MR. M K NEOG

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

13.10.2026

Heard Mr. M.K. Neog, learned counsel for the petitioner and Mr. P. Borthakur, learned Additional Public Prosecutor for the State.

2. In this petition, under Section 528 of the BNSS, the petitioner, namely, Sri

Lucky Lagachu, has prayed for setting aside and quashing the entire criminal proceeding of Special (P) Case No. 39/2025, arising out of Dhakuakhana PS Case No. 16/2025, pending before the court of learned Special Judge (POCSO), Lakhimpur, at North Lakhimpur.

3. Mr. Neog, learned counsel for the petitioner, submits that the present petitioner is an accused in Special (P) Case No. 39/2025, arising out of Dhakuakhana PS Case No. 16/2025, pending before the court of learned Special Judge (POCSO), Lakhimpur, at North Lakhimpur and that in the said case, till date, two witnesses have been examined.

3.1. Mr. Neog further submits that basically on two grounds this petition has been filed before this Court for quashing the entire proceeding. The first ground is that there is contradiction in the evidence of the witnesses examined so far and secondly, the mother of the victim girl has filed an affidavit that she has no objection if the accused is acquitted on the ground of amicable settlement as she belongs to the same locality of the present petitioner.

4. Per-contra, Mr. Borthakur, learned Additional Public Prosecutor, has vehemently opposed the petition. He, firstly, submits that in a petition for quashing criminal proceeding, this Court is not entitled to appreciate the evidence and that the grounds so taken by the petitioner herein requires appreciation of evidence. He, secondly, submits that the mother of the victim cannot compound the offence, in view of the decision of Hon'ble Supreme Court in the case of **Ramji Lal Bairwa and Another vs. State of Rajasthan and Others**, reported in **(2025) 5 SCC 117**. Mr. Borthakur also submits that the grounds so taken by the petitioner herein in this petition are not at all tenable and therefore, he has contended to dismiss this petition.

5. Having heard the submissions of learned counsel for both the parties, this Court has carefully gone through the petition as well as the documents placed on record and also perused the decision of Hon'ble Supreme Court in the case of **Ramji Lal Bairwa (supra)**.

6. It appears that the petitioner herein is charge-sheeted under Section 65(1) of the BNS and Section 6 of the POCSO Act. It also appears that at the relevant time, the victim was 15 years old. At present, the Special (P) Case No. 39/2025 is pending at the stage of trial and till date, two witnesses have been examined. Further, perusal of the record, especially statement of the witnesses examined so far, indicates a prima-facie case against the present petitioner.

7. Though Mr. Neog, learned counsel for the petitioner, submits that that there are some contradictions in the evidence of PW1 and PW2, yet this Court, while dealing with a petition, under Section 528 of the BNS, is not entitled to appreciate the evidence, while trial is going on and most of the witnesses are yet to be examined. It is well settled in the case of M/s Neeharika Infrastructure Private Limited vs. State of Maharashtra (Criminal Appeal No. 330/2021, that High Court is not entitle to conduct mini trial in a petition under Section 482 of the CrPC.

7.1. Thus, the first ground so taken by the petitioner fell apart.

8. Moving forward to the second ground, this Court finds that the FIR was lodged by the victim herself and as such, her mother cannot settle the matter with the petitioner amicably.

9. It is to be noted here that in the case of **Ramji Lal Bairwa (supra)**, especially in paragraph Nos. 36, 40, 41, 42, 43 and 45, Hon'ble Supreme Court has held as under:-

"**36. Thus, in unambiguous terms this Court held that before exercising the power under Section 482 CrPC the High Court must have due regard to the nature and gravity of the crime besides observing and holding that heinous and serious offences could not be quashed even though a victim or victim's family and the offender had settled the dispute. This Court held that such offences are not private in nature and have a serious impact on the society. Having understood the position of law on the second question that it is the bounden duty of the court concerned to consider whether the compromise is just and fair besides being free from undue pressure we will proceed to consider the matter further.**

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40. A bare perusal of the impugned order and in the light of the observations and binding conclusions in Gian Singh case, bearing in mind the allegations in the subject FIR, it would reveal that the High Court has misread and misapplied the law laid down in Gian Singh case to quash the subject FIR and all further proceedings based in pursuance thereof. We are at a loss to understand how the High Court arrived at the conclusion that in the case on hand a dispute to be resolved exists between the parties and further that to maintain harmony the FIR and all further proceedings thereto should be quashed even without adverting to the allegations raised against the 3rd respondent in the subject FIR. It is also a fact that though in terms of the decision in Gian Singh case an irrecusable duty of the Court is to consider whether the compromise could be acted upon or not in the interest of justice, the impugned order[1] would reveal that the High Court has failed to bestow proper consideration in that regard as well.

41. In the contextual situation, it is also relevant to refer to a three-Judge Bench decision of this Court in State of M.P. v. Laxmi Narayan. This Court held that whether an FIR is quashable or not would depend upon the facts and circumstances of each case and while considering that question, the Court has to apply its mind to:

(i) whether the crime is one against the society or against an individual alone, nature of the dispute,

(ii) seriousness and how the crime was committed,

(iii) whether offence(s) is one under a special statute,

(iv) stage of proceedings and how the accused managed to compromise with the complainant.

42. In this regard, it is relevant to note that in the case on hand the victim was then a student of Class 11th in the higher secondary aged 16 years. The statement annexed to the FIR of the complainant viz. the 4th respondent itself would reveal that on 8-1-2022 he complained about the pressure from the 3rd respondent to restrain him from lodging report. The compromise was entered immediately thereafter on 31-1-2022. Despite the said position, the Court has d not chosen to consider whether the compromise entered into between the parents and the accused could be acted upon or not, in the interest of justice, taking note of the serious allegations levelled against the 3rd accused and in view of the law laid down in Gian Singh case2.

43. In that context, it is relevant to refer to a decision of a learned Single Judge of the Delhi High Court in Sunil Raikwar v. State 21. Para 12 therein, to the extent it is relevant reads thus: (SCC OnLine Del)

> **"12. The father of the victim cannot be permitted to settle the dispute with the accused. He is not the victim and the courts have to safeguard and protect the interest of children against onslaught by bad forces. We cannot lose sight of the fact that the accused is being prosecuted for an offence that shocks the value system of a society and this is not a matter that can be permitted to be settled as a compoundable minor offence. Deterrence to others committing similar offence is a must and they cannot get a signal that anything and everything can be compromised."**
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> **45. In the decision relied on by the High Court to quash the proceedings viz. Gian Singh case2 and the decision in Laxmi Narayan case20 in unambiguous terms this Court held that the power under Section 482 CrPC could not be used to quash proceedings based on compromise if it is in respect of heinous offence which are not private in nature and have a serious impact on the society. When an incident of the aforesaid nature and gravity allegedly occurred in a higher secondary school, that too from a teacher, it cannot be simply described as an offence which is purely private in nature and has no serious impact on the society."**

10. In the instant case, indisputably the petitioner is charged under Section 65(1) of the BNS, read with Section 6 of the POCSO Act. The charges are very serious in nature and the crime is against the society and also under special statute of POCSO. And trial is going on and two witnesses have already been examined and cursory perusal of their evidences indicates complicity of the present petition with the charges.

11. Thus, applying the ratio laid down in the case of **Ramji Lal Bairwa**

(supra), to the aforesaid factual matrix, this Court is of the view that the second ground for filing the present petition is also not sustainable. Therefore, this Court is of the considered view that no case is made out for quashing the proceeding of Special (P) Case No. 39/2025, as the mother of the victim cannot be permitted to compound the case.

12. Accordingly, this petition stands dismissed at the motion stage itself.

JUDGE

Comparing Assistant