GAHC010230752026

2026:GAU-AS:16589

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

Case No. : Crl.Pet./1514/2026

SRI PARASHMANI DEORI
SON OF SRI MILON DEORI, RESIDENT OF WARD NO.5, DEORI COLONY,
P.S.- BIHPURIA, DIST.- LAKHIMPUR, ASSAM.

VERSUS

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

2:SRI MILAN DEORI
SON OF LATE TILESWARDEURI
RESIDENT OF VILLAGE BIHPURIA
WARD NO. 5
POLICE STATION BIHPURIA
LAKHIMPUR
ASSAM

Advocate for the Petitioner : MR. P K TALUKDAR, MS TINLUNG

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

12.11.2026

Heard Mr. P.K. Talukdar, learned counsel for the petitioner and Mr. R.J. Borua, learned Additional Public Prosecutor for the State respondent.

2. This petition, under Section 528 of the BNSS, read with Article 227 of the Constitution of India, is preferred by the petitioner, challenging the legality and validity of the order, dated 31.08.2026, passed by the learned Special Judge (POCSO), Lakhimpur, North Lakhimpur (trial court hereinafter), in Special (P) Case No. 77/2026, arising out of Bihpuria PS Case No. 88/2026, registered under Section 65(1) of the BNS, read with Section 6 of the POCSO Act.

3. It is to be noted here that vide impugned order, dated 31.08.2026, the learned trial court, had dismissed the petition filed by the petitioner for issuing summon to the Chairperson of Child Welfare Committee, Lakhimpur (CWC hereinafter), and directing it to produce the statement of the victim girl, recorded by it, before the learned trial court, for the ends of justice.

4. Mr. Talukdar, learned counsel for the petitioner, submits that the petitioner is an accused in Special (P) Case No. 77/2026, and the said case is pending at the stage of trial. He further submits that in the said case, the CWC had recorded the statement of the victim girl and the copy of the statement was not enclosed with the charge-sheet by the IO. He also submits that while the matter was pending before the learned trial court for evidence, the petitioner herein had filed one petition, being petition No. 1400/2026, for summoning the Chairperson of the CWC and directing it to produce the statement of the victim girl, recorded by it before the learned trial court. But, vide impugned order, dated 31.08.2026, the learned trial court had erroneously dismissed the petition.

4.1. Mr. Talukdar further submits that in the interest of justice, production of the statement of the victim girl, recorded by the CWC is very much necessary and as such, he has contended to allow this petition.

5. Per contra, Mr. Borua, learned Additional Public Prosecutor, has opposed

the petition. He submits that the CWC has no role in the investigation of this case and that the statement of the victim girl, even if recorded by the CWC, has nothing to do with the investigation of the present case. He further submits that under Section 230 of the BNSS, the learned trial court has to supply copy of the police report and other documents which were enclosed with the charge-sheet, such as (i) police report; (ii) first information report, recorded under Section 183 of the BNSS; (iii) the statement recorded under sub-Section 3 of Section 180 of the BNSS; (iv) confession and statement if any recorded under Section 183 of the BNSS; (v) any other document or relevant extract thereof forwarded to the Magistrate with the police report, under sub-Section 6 of Section 193 of the BNSS.

5.1. Mr. Borua further submits that there is no provision for providing the copy of the statement of the victim girl, recorded by the CWC and as such, the impugned order suffers from no infirmity or illegality requiring any interference of this court. And therefore, he has contended to dismiss the petition.

6. 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 impugned order, dated 31.08.2026.

7. It appears that the learned trial court after hearing both the parties on the petition filed by the petitioner herein, had recorded a finding that the CWC has no legal mandate or authority to formally record the evidentiary statement of victim girl in a POCSO criminal trial and CWC only focuses on the child's best interest, rehabilitation, shelter, and overall welfare, rather than criminal investigation and CWC when receives information about offences within 24 hours, may interact with the child for support person, under Section 19 of the POCSO Act, but it does not conduct a criminal investigation or trial or record any

evidentiary statement. It can only conduct enquiries or assessment regarding the care, protection and rehabilitation of a child victim and thereafter, it had rejected the petition.

8. Mr. Talukdar, learned counsel for the petitioner, on repeated asking, has failed to demonstrate before this court as to how the aforementioned finding recorded by the learned trial court is illegal or improper.

9. It is to be noted here that the court has to supply the documents to the accused person as mentioned under Section 230 of the BNSS. The alleged statement of the victim girl, recorded by the CWC, is not part of police report and the investigation conducted by the IO.

10. Indisputably, CWC has no rule in criminal investigation and as such, the statement of the victim girl, even if recorded by the CWC, to the considered opinion of this Court, has no bearing in the criminal trial.

11. In that view of the matter, this Court is of the considered opinion that this petition is not at all maintainable. And accordingly, the same stands dismissed, at this motion stage itself, leaving the parties to bear their own costs.

JUDGE

Comparing Assistant