GAHC010246322025

2026:GAU-AS:16297

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

Case No. : Crl.Pet./1398/2025

MEHNAJ SULTANA ALIAS MEHNAZ SULTANA
W/O- MD HAFIZUDDIN AHMED R/O- JAYANTIPUR GAON, P.O. KUWORITOL, P.S. KALIABOR DIST- NAGAON, ASSAM, PIN-782137 MOBILE NO. 7980363262

VERSUS

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

2:MISS NUR BEGUM
W/O- JABBAR ALI R/O- KUWARITOL CHARIALI
P.O. KUWORITOL
P.S. KALIABOR DIST- NAGAON
ASSAM
PIN- 782137 MOBILE NO. 602673582

Advocate for the Petitioner : MS N CHATTERJEE, P K BARUAH,HAZARAT MIRZA ALI

Advocate for the Respondent : PP, ASSAM, MR. SURAJIT DAS, AMICUS CURIAE (R-2)

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA

O R D E R

Date : 06.11.2026.

Heard Mr. H.M. Ali, the learned counsel for the petitioner. Also heard Ms.

S.H. Bora, learned Addl. P.P., Assam appearing on behalf of the State respondent No.1 and Mr. S. Das, learned Amicus Curiae appearing for the respondent No. 2/informant.

This is an application under Section 528 of the BNSS, 2023 (corresponding to Section 482 of the CrPC, 1973), for quashing of the FIR, charge sheet and the entire criminal proceeding of PRC Case No.475/2025, pending before the Court of learned SDJM, Kaliabor in Nagaon, under Section 115(2)/303(2)/351(3) of the BNS, 2023.

It is submitted by Mr. Ali, the learned counsel for the petitioner that the FIR of the case is lodged with some false and concocted allegations, only due to previous grudge and enmity. He further submitted that the informant/respondent No.2 of this case is the maternal aunt of the husband of the petitioner and only for the earlier grudge, this case is lodged against her though she is separately staying with her two minor children. Mr. Ali, the learned counsel for the petitioner further submitted that it is a case of cross FIR, wherein the petitioner also lodged an FIR against the respondent No.2, which was accordingly registered. However, the case lodged by the petitioner is ended in Final Report. He further submitted that the Hon'ble Apex Court in the case of ***State of Haryana & Ors. Vs. Bhajan Lal & Ors.***, reported in ***1992 Supp (1) SCC 335***, in sub-para 7 of para 102 has held that the case is liable to be quashed, if it is manifestly attended with a mala fide or ulterior motive only, due to private and personal grudge. Para 102(7) of the said judgment reads as under:

> "*(7) 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."*

The present case is also lodged due to previous grudge. Accordingly, the learned counsel for the petitioner submitted that it is a fit case wherein the entire criminal proceeding including the FIR as well as the charge sheet can be quashed and set aside, by invoking the power under Section 528 of the BNSS, 2023.

Through the additional affidavit, the learned counsel for the petitioner also furnished the FIR lodged by the present petitioner in the Police Station and other relevant documents. However, he submitted that the charge has already been framed and one prosecution witness is also examined by the prosecution till date.

Mr. Das, the learned Amicus Curiae appearing for the respondent No. 2/informant submitted in this regard that the case is of petty offence and already recoding of evidence had started in the case and within 2/3 months, the entire case may be disposed of by the learned Trial Court below. Further he submitted that from the plain reading of the FIR itself, it is seen that *prima facie* a case is established against the present petitioner and hence, it is not a fit case to quash the entire criminal proceeding by invoking power under Section 528 of the BNSS, 2023.

Ms. Bora, the learned Addl. P.P., Assam also submitted in this regard that the case has already been charge sheeted, charge framed and the trial is going on and hence, the probability of disposal of the case within a short period can be expected. More so, the petitioner is on bail and she is also appearing before the learned Trial Court below. Further, she submitted that *prima facie* there is case against the present petitioner, on the basis of which the police also filed

charge sheet against the present petitioner. She accordingly submitted that at present there is no reason to set aside and quash the entire proceeding at this stage.

Hearing the submissions made by learned counsel for both sides, I have also perused the case record and the scanned copy of the TCR, received from the learned Trial Court below.

Admittedly there was cross-case between the parties and both the petitioner as well as the respondent No.2 filed the cross FIR, which were accordingly registered and investigated. However, the FIR which is lodged by the present petitioner ended with final report and the FIR lodged by the respondent No.2 is charge sheeted against the present petitioner.

It is submitted by Mr. Ali, the learned counsel for the petitioner that only due to previous grudge, the case is lodged against the present petitioner, though she has no connection with the respondent No.2 and is living separately from her husband with two minor children. But from the plain reading of the FIR, it is seen that *prima facie* case is available against the present petitioner, on the basis of which the case is registered, investigated and charge sheeted against the present petitioner.

The Hon'ble Apex Court in the case of ***Bhajan Lal (Supra),*** has observed as under:

> "***102.*** *In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases 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 channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) 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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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."

But here in the instant case, it is seen that even in the plain reading of the FIR, a *prima facie* case is found against the present petitioner and there is nothing in the FIR to held that the case is lodged only due to previous grudge. Rather, specific allegation of assault and threatening is brought against the present petitioner.

More so, as submitted by Mr. Das, the learned Amicus Curiae, the case is of petty offence and the trial had already initiated and disposal of the case, within short period also can be expected.

Considering all the above aspects of the case and the view expressed by the Hon'ble Apex Court in the case of ***Bhajan Lal (Supra),*** this Court is of the opinion that it is not a fit case to quash the FIR, charge sheet and the entire criminal proceeding of PRC Case No.475/2025, pending before the Court of learned SDJM, Kaliabor against the present petitioner at this stage by invoking the power under Section 528 of the BNSS.

Accordingly, this criminal petition being devoid of any merit, stands dismissed.

JUDGE

Comparing Assistant