GAHC010247742026

2026:GAU-AS:16591

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

Case No. : Crl.Pet./1555/2026

SRI SANJAY KUMAR JALAN
S/O LATE LAKSMI NARAYAN JALAN, R/O AT ROAD, CO MP JALAN PETROL PUMP, PO AND PS HIJUGURI, DIST TINSUKIA, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.
TO BE REPRESENTED BY THE SPECIAL PUBLIC PROSECUTOR, ASSAM

2:SURESH KUMAR JALAN
R/O C/O M/S TINSUKIA OIL TRADERS
HIJUGURI
PO HIJUGURI
DIST TINSUKIA
ASSAM
PIN 786192

3:RAJESH KUMAR JANAN
R/O C/O M/S TINSUKIA OIL TRADERS
HIJUGURI
PO HIJUGURI
DIST TINSUKIA
ASSAM
PIN 786192

4:DEBASISH CHAKRABORTY
R/O C/O M/S TINSUKIA OIL TRADERS
HIJUGURI
PO HIJUGURI
DIST TINSUKIA
ASSAM
PIN 786192

5:MOHANJEET KUMR PEGU
R/O C/O M/S TINSUKIA OIL TRADERS
HIJUGURI
PO HIJUGURI
DIST TINSUKIA
ASSAM
PIN 786192

6:GIASUDDIN AHMED
R/O C/O M/S TINSUKIA OIL TRADERS
HIJUGURI
PO HIJUGURI
DIST TINSUKIA
ASSAM
PIN 78619

Advocate for the Petitioner : MR. P K ROYCHOUDHURY, S AHMED,MR. A K AZAD,MR. N HAQUE

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

12.11.2026

Heard Mr. P.K. Roychodhury, learned senior counsel, assisted by Ms. S.K. Laskar, learned counsel for the petitioner and Ms. S.H. Borah, learned Additional Public Prosecutor for the State respondent.

2. In this petition, under Section 528 of the BNSS, read with Article 227 of the Constitution of India, the petitioner has challenged the order dated 10.07.2026, passed by the learned Chief Judicial magistrate, Tinsukia, accepting the final report of Tinsukia PS Case No. 34/2026, dated 21.06.2026, filed by the I.O. on the ground of insufficient evidence.

3. Mr. Choudhury, learned counsel for the petitioner, submits that the petitioner had filed one FIR, on 04.03.2025, upon which Tinsukia PS Case No. 86/2025,

under Sections 61(2)/338/336(3)/340(2) of the BNS, was registered and thereafter, investigation was carried out and upon completion of the investigation, the IO had submitted a final report, on the ground of insufficient evidence. Thereafter, the learned Chief Judicial Magistrate, Tinsukia, vide impugned order dated 10.07.2026, had accepted the said final report without issuing any notice and without giving an opportunity of being heard to the petitioner and as such, the impugned order dated 10.07.2026, is illegal and improper and therefore, Mr. Choudhury has contended to interfere with the same.

4. Per-contra, Ms. Borah, learned Additional Public Prosecutor, fairly submits that after the final report being filed by the IO, on the ground of insufficient evidence, the learned Chief Judicial Magistrate, Tinsukia, ought to have been issued notice to the informant and to give him an opportunity of being heard, but the same seems to have not been complied with in this case.

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 impugned order dated 10.07.2026.

6. In the case of **Bhagwat Singh vs. Commissioner of Police**, reported in **(1985) 2 SCC 735**, Hon'ble Supreme Court has held that a Magistrate receiving a police report, under Section 173(2) CrPC (now 193 of the BNSS) and proposing not to take cognizance, drop the proceeding or not to proceed against some persons named in the FIR, the Magistrate must give notice to the informant and provide an opportunity of being heard and this is mandatory.

7. In the instant case, from a perusal of the impugned order, it appears that notice was not issued to the informant and no opportunity of being heard was afforded to the informant (petitioner herein) before acceptance of the final report.

8. In that view of the matter, the impugned order dated 10.07.2026, fails to

withstand the legal scrutiny and accordingly, the same stands set aside and quashed.

9. The matter stands relegated to the learned Chief Judicial Magistrate, Tinsukia, to issue notice to the informant (petitioner herein) and to furnish a copy of the final report to him and then, to afford him an opportunity of being heard and thereafter, to pass a fresh order upon the final report.

10. The aforesaid exercise be carried out within a period of 4 (four) weeks from the date of receipt of a certified copy of this order.

11. The petitioner shall obtain a certified copy of this order and place the same before the learned Chief Judicial Magistrate, Tinsukia, within a period of 1 (one) week from today.

12. In terms of above, this petition stands disposed of, at this motion stage itself.

JUDGE

Comparing Assistant