GAHC010253522026

2026:GAU-AS:17098

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

Case No. : Crl.Pet./1609/2026

SRI PURNANANDA PEGU
S/O MUKTINATH PEGU R/O- KAITANGKATHALGURI P.O-KAITONG P.S
-DHEMAJI PIN 787058

VERSUS

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

2:SMTI GAYATRI DOLEY
D/O-LATE NAREN DOLEY R/OVILL-NIMATI ROAD
AT ROAD
NEAR BHOGDOI BRIDGE
WARD NO 19
P.O P.S-JORHAT DISTRICT JORHAT PIN-785001
ASSA

Advocate for the Petitioner : MR J PAYENG, MS. SUSMITA DOLEY,MS A PAYENG,MS. N S RAJKHOWA,I GOGOI

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

19.11.2026

1. Heard Mr. J. Payeng, learned counsel appearing for the petitioner. Also

heard Mr. K.K. Das, learned APP appearing for the State of Assam.

2. By this application filed under Section 528 of the BNSS, 2023, the petitioner has prayed for quashing of the FIR registered as Dhemaji P.S. Case No. 171/2026 under Section 85 of the BNS, 2023.

3. The FIR sought to be quashed was lodged on 22.10.2026 by the respondent No. 2, wherein she stated that she was married to the petitioner on 12.12.2014 in accordance with Hindu rites and customs and that following their marriage, they lived together as husband and wife. She further stated that at the time of their marriage, the petitioner was serving as a permanent employee of the Assam Police Special Branch at the Guwahati Headquarters as a Stenographer Grade-I and Personal Assistant to the Superintendent of Police. A few years thereafter, the petitioner was transferred to Delhi in connection with his service. The respondent No. 2 alleged that she subsequently came to know that the petitioner was maintaining illicit relationships with several women. However, in the hope that he would mend his ways, she initially refrained from raising any objection. She further alleged that the petitioner subjected her to physical and mental torture, insulted her and made indecent and humiliating remarks, thereby causing her mental distress. She also stated that she had caught the petitioner maintaining relationships with other women. It was further alleged that on 09.01.2021, the petitioner sent her to Guwahati on the pretext that he would construct a house there. However, she was subsequently informed that the petitioner had married another woman. Upon contacting the father of the said woman, she came to learn that the petitioner had solemnized his marriage with her on 17.01.2024. Certain allegations have also been levelled against the parents of the petitioner.

4. The learned counsel appearing for the petitioner submits that the petitioner

was married to the respondent No. 2 on 12.12.2014 and that the present FIR has been lodged after an inordinate delay, on the basis of allegations purportedly relating to events immediately following the marriage. He further submits that the respondent No. 2 had initially instituted a proceeding under Section 125 of the CrPC. However, upon a settlement being arrived at between the parties to the effect that they would continue to reside together as husband and wife, the said proceeding was withdrawn and the same was accordingly allowed by the learned Court.He further submits that subsequently the respondent No. 2 instituted another proceeding under Section 125 of the CrPC, which is presently pending disposal. He also submits that the petitioner has instituted a proceeding seeking dissolution of marriage by way of divorce which is also pending. The learned counsel submits that the allegations made in the FIR do not satisfy the ingredients of cruelty as defined under Section 86 of the BNS, 2023. He contends that the FIR does not disclose any allegation of physical assault, bodily injury or any act endangering the life, limb or health of the respondent No. 2. He further submits that the allegation regarding the petitioner having contracted another marriage is also concocted and baseless.

5. On the other hand Mr. K.K. Das, learned APP submits that the ingredients of the offence under Section 85 of the BNS, 2023 are made out from the allegations contained in the FIR. He further submits that there are specific allegations that the respondent No. 2 was subjected to mental torture by her husband and was undergoing severe mental distress. According to the learned APP, such allegations would fall within the ambit of clause (a) of Section 86 of the BNS, 2023.

6. I have heard the learned counsel for the parties and have perused the materials available on record. As the contents of the FIR have already been

narrated hereinabove, the same need not be repeated. It is noticed that the respondent No. 2 has made specific allegations regarding the mental torture allegedly inflicted upon her by the petitioner. It is pertinent to note that Section 86 of the BNS, 2023 does not confine cruelty merely to acts causing danger to life, limb or physical health or resulting in grave injury. The provision also encompasses wilful conduct that is likely to cause grave injury or danger to the mental health of a woman. In this regard, clause (a) of Section 86 of the BNS, 2023, is reproduced herein below:

> "*86. Cruelty defined - For the purposes of section 85, "cruelty" means—.*
>
> *(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman.*

7. A bare reading of the aforesaid provision makes it clear that any wilful conduct which is of such a nature as is likely to cause danger to the mental health of the victim would also constitute cruelty within the meaning of Section 85 of the BNS, 2023. In the present case, the respondent No. 2 has categorically stated in the FIR that when she objected to the petitioner's conduct of maintaining illicit relationships with other women, the petitioner subjected her to physical and mental torture, insulted her and made indecent and humiliating remarks thereby causing her severe mental distress. Further, the allegations in the FIR that the petitioner had solemnized another marriage and that upon contacting the father of the said woman, the respondent No. 2 was informed that the petitioner had socially married her on 17.01.2024 are also circumstances which at this stage cannot be overlooked while considering the allegation of mental cruelty and the consequent mental distress allegedly suffered by the respondent No. 2.

8. It is a settled proposition of law that where the allegations made in an FIR,

on a prima facie reading thereof disclose the commission of a cognizable offence the same ought not to be quashed by a Court in exercise of its inherent jurisdiction. In *State of Haryana v. Bhajan Lal*, reported in *1992 Supp (1) SCC 335*, the Hon'ble Supreme Court has laid down that where the allegations made in the FIR, complaint or the accompanying materials prima facie disclose the commission of an offence the proceedings ought not to be quashed. It has further been held that interference would be warranted only in cases where, upon a plain reading of the FIR and the accompanying materials, no prudent person could arrive at the conclusion that an offence is made out.

9. In the instant case, the ingredients of the offence under Section 85 of the BNS, 2023 are prima facie attracted. Even in the absence of any specific allegation of physical injury or danger to life, limb or physical health, the allegations of mental torture are writ large in the FIR.

10. Accordingly, this Court does not deem it appropriate to exercise its inherent jurisdiction to quash the FIR at this stage.

11. The petition stands dismissed.

JUDGE

Comparing Assistant