GAHC010269352025

2026:GAU-AS:16076

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

**Case No. : Crl.Pet./1541/2025**

RASHIMA ALIAS NURJAHAN BEGUM
RESIDENT OF VILL. BIDALKUCHI, LACHIMA, P.S. MUKALMUWA,
DISTRICT- NALBARI, ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR
REP BY THE PP, ASSAM

2:SRI DEBA DUTTA
APS
S/O BIRESWAR DUTTA
DY. SP
CID
ASSAM
ULUBARI

GUWAHATI-07
KAMRUP (M)
ASSA

**Advocate for the Petitioner** : MS. T SOM, MS. S SUT

**Advocate for the Respondent** : PP, ASSAM,

With **Case No. : Crl.Pet./1572/2025**

MD JAMALUDDIN
S/O LATE AJURUDDIN
VILL- BHAGNAMARI

P.S. BHAGNAMARI
DIST. NALBARI, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP, ASSAM

2:DEBO DUTTA
APS
DEPUTY SUPERINTENDENT OF CID
ASSAM
ULUBARI
GUWAHATI-0

**Advocate for the Petitioner** : MR H R A CHOUDHURY, MR. A T SARKAR,S R DAS

**Advocate for the Respondent** : PP, ASSAM,

**-BEFORE-**
**HON'BLE MR. JUSTICE PRANJAL DAS**

| | | |
|---|---|---|
| Advocate for the petitioner | | : Ms. T. Som, Adv.<br>: Mr. A. T. Sarkar, Adv |
| Advocate for the State respondent | | : Mr. K. Baishya, Addl. PP |
| Date on which judgment is reserved | : | **20.08.2026** |
| Date of pronouncement of judgment | : | **03.11.2026** |
| Whether the pronouncement is of the operative part of the judgment ? | : | N/A |
| Whether the full judgment has been pronounced? | : | Yes |

## JUDGMENT & ORDER (CAV)

Heard *Ms. T. Som*, learned counsel for the petitioner, *Rashima alias Nurjahan Begum*, in Crl.Pet./1541/2025 and *Mr. A. T. Sarkar*, learned counsel for the petitioner, *Md. Jamaluddin*, in Crl.Pet./1572/2025. Also

heard *Mr. K. Baishya*, learned Additional Public Prosecutor for the State in both the criminal petitions.

**2.** Both these criminal petitions arising out of similar facts and circumstances and with identical prayers of quashing of the ongoing criminal proceedings are being disposed of by this common judgment and order.

**3.** Both the criminal petitions mentioned above have been filed by the petitioners, *Rashima alias Nurjahan Begum* and *Md. Jamaluddin* seeking quashing of CID PS Case No. 28/2018 under Section 120(B)/409 IPC.

**4.** The aforementioned CID PS case was registered on the basis of a complaint dated 12.10.2018 lodged by *Shri Deba Dutta*, APS, DySP, CID.

**5.** The gist of the allegations was that the informant police official had enquired into the matter of allegations against *Jitendra Kumar Nath*, the then BDO, Barkhetri Block, Mukalmuwa in the district of Nalbari, and during his enquiry, he found that there was a conspiracy and misappropriation of government funds of Chief Minister's Special Package/IAY Schemes 2015-2016.

**6.** On the basis of the aforesaid complaint, CID PS Case No. 28/2018 was registered under Section 120(B)/409 IPC. Investigation started into the case, and it is revealed that despite the lapse of several years, the case is still at the stage of investigation. For the purpose of adjudicating the criminal petitions seeking quashing of the criminal proceedings, the case diary was called for and is placed before the Court by the Investigating Officer.

**7.** It transpires from the FIR that originally a complaint was submitted by *Hemendra Kumar Mahanta* of Nalbari against the then BDO *Jitendra*

*Kumar Nath*, as mentioned above, and the informant *Deba Dutta* was entrusted to make an enquiry into the matter, and upon completion of the enquiry, he submitted the enquiry report before the Senior Superintendent of Police, CID, Assam, whereupon the CID PS case, the details of which have already been narrated, was registered and investigated into.

**8.** It is stated in the FIR that during the course of enquiry, the informant met the DC, Nalbari on 06.10.2018, and the DC, Nalbari stated that after verifying the records, it was found that no previous enquiry was conducted by the then DC, Nalbari. The informant also stated in the FIR that he met the complainant, *Hemendra Kumar Mahanta*, who was the then Branch Manager of Assam Gramin Vikash Bank, Karia Branch, Nalbari, and he was examined regarding the allegations.

**9.** It is stated in the FIR that the said complainant, *Hemendra Kumar Mahanta* stated that he lodged the complaint after getting information from some of his neighbors regarding misappropriation of government funds sanctioned for repairing/renovation of IAY houses under Barkhetri LAC, and that a news story was also published in the *Asomiya Pratidin* newspaper in this connection. It is stated in the FIR that the complainant stated that an enquiry involving public hearings also, was conducted by the then DC, Nalbari. It is stated in the FIR that the Enquiry officer, *Deba Dutta* met the then current BDO *Nekibur Rahman* and examined him, and he stated that there was no scheme for repairing/renovation of IAY houses, but related schemes were there such as CM's Special Package Scheme 2015-16, and that in that scheme, a total of Rs. 2.50 crores was sanctioned for total beneficiaries of 1000 in number of Barkhetri Development Block under Barkhetri LAC, vide order dated 19.01.2016 of

the Project Director, DRDA, Nalbari.

**10.** It is stated that it came to be known that 712 numbers of beneficiaries were selected by the concerned committee with a direction to release the fund through account payee cheques in two instalments of Rs. 15,000/- and Rs. 10,000/- respectively, and that the BDO was to be held personally liable for any deviation from the Government guidelines.

**11.** It is further stated in the FIR that it was revealed from *Binoy Das*, Extension Officer of the Block, that there were total 550 beneficiaries, and though the first instalment of Rs. 15,000/- were handed over to the all the beneficiaries by account payee cheques, but in case of second instalment of Rs. 10,000/-, it was handed over to only 285 beneficiaries by account payee cheque, and 265 numbers of beneficiaries were due for issuing the cheques. That, later on, the outstanding amount of Rs. 91,35,638/- were returned as unutilized fund by treasury challan dated 08.11.2016.

**12.** The enquiry officer further stated in the FIR that upon checking the cash book, it was found that some cheques were shown to the beneficiaries without signatures of the respective beneficiaries, and it was also found that in some cases, one person had put his signature against the names of several beneficiaries in the cash book and shown issued cheque to the said beneficiaries, and that the said aspect raised sufficient suspicion of fraudulent withdrawal of funds. It was also found during the enquiry that the disbursement of funds by way of bearer cheques amounting to Rs. 1.20 lakhs to eight numbers of beneficiaries were violative of the guidelines.

**13.** It is further stated in the FIR by the Enquiry Officer that out of the balance amount of Rs. 95,90,638/-, Rs. 91,35,638/- was withdrawn and

deposited into the government treasury vide treasury challan No. 11/2951 dated 11/11/2016 as unutilized balance, but a balance of Rs. 4.55 lakhs was kept in the bank account, and the reason for retention of the said amount of Rs. 4.55 lakhs was not found in the records. It is also stated that it was noticed from the bank passbook that out of Rs. 4.55 lakhs, an amount of Rs. 1,72,000/- was withdrawn by four numbers of bearer cheques in the name of one M. Hussain, the details of which were: Rs. 49,000/- vide cheque No. 028743 dated 06.03.2017; Rs. 49,000/- vide cheque No. 028742; Rs. 49,000/- vide cheque No. 028839 and Rs. 25,000/- vide cheque No. 028771.

**14.** It is stated that during enquiry, two numbers of beneficiaries were examined as introduced by the complainant, and they stated that though they had received the first instalment of Rs. 15,000/-, but they had not received the second instalment of Rs. 10,000/-, and upon approaching the then BDO, they were told that the second instalment was returned to the government as per government order. They further stated that most of the beneficiaries received the second installment, though these beneficiaries who were examined stated that they were deprived without any reason.

**15.** The Enquiry officer stated that he collected the bank statement of account No. 3451825700 of Barkhetri Development Block for the period of 21.01.2016 to 31.03.2017 from the Central Bank of India, Mukalmua Branch in the district of Nalbari, and after verification of the bank account, it was found that some cheques were account payee cheques issued against the beneficiaries, but some others were shown issued bearer cheques, which is in violation of the guidelines prescribed by the government. The Enquiry officer summed up the narration in the FIR by

stating that during enquiry, it was found that there was a criminal conspiracy and misappropriation of the government fund of CM's Special Package Scheme 2015-16 committed by the then BDO *Jitendra Kumar Nath* of Barkhetri Block and others, and therefore, a thorough investigation was called for into the matter.

**16.** As already mentioned, on the basis of this FIR, the case was registered and investigated into, and it is still at the stage of investigation, though from the bare perusal of the case diary, it appears that the IO has conducted voluminous investigation so far.

**17.** The contention of the petitioner, *Nurjahan Begum* is that she was implicated solely on the allegation that a forged cheque leaf purportedly belonging to *Asadeep Atma Sahayak Goot* was found in her possession. It is contended that she was arrested on 28.08.2025 on the basis of unverified and unfounded allegations, and that she completely denies any involvement in the alleged offences. It is contended that due to her arrest, she was also subsequently put under suspension. It is contended that the petitioner has no involvement, knowledge, or connection with any alleged misappropriation. That, she has never been entrusted with any public money nor executed or authorized any financial transaction in her personal capacity. It is contended that she is neither a public servant nor a government agent, and that the ingredients of criminal breach of trust are not available against her. It is also stated that she is not involved in any conspiracy, and that the ingredients of any such conspiracy are also not available.

**18.** *Ms. Som*, the learned counsel for the petitioner, *Nurjahan Begum*, submits that almost nine years have elapsed since the initiation of

investigation pursuant to registration of the case, and till now, the investigation is not yet completed, and that the said state of affairs has caused grave prejudice to the petitioner. It is submitted that the petitioner was neither an employee of the government nor an agent, and that the ingredients of Section 409 IPC would not come. It is submitted that the petitioner is not involved in any conspiracy, and that she was not even a beneficiary of the purported scheme out of which the allegations arose.

**19.** The other petitioner, *Md. Jamaluddin*, also denies his involvement in any conspiracy or misappropriation, as alleged.

**20.** This petitioner also contends that the long pendency of the investigation has caused him considerable prejudice, leading him to seek quashing of the proceedings altogether. The petitioner contends that he was a secretary of an NGO named Life Career Society, and to conduct the NGO, the office bearer of the NGO used to deposit and withdraw money from the Central Bank of India, Mukalmua Branch, where the account was registered in the name of the NGO itself. It is contended that it appears that the then BDO, Branch Manager of the bank along with one *M. Hussain* were the persons who had given effect to the offence of alleged misappropriation of government money, and that the present petitioner is a scapegoat of the incident and has been falsely implicated. It is stated that the cheque numbers were found to have been tampered by the said *M. Hussain*, and that the petitioner is not at all involved in any such act of manipulation.

**21.** *Mr. Sarkar*, the learned counsel for the petitioner submits that despite the registration of the case in 2018, the petitioner was not arrested, and it was done so only in 2025 on the basis of unfounded

allegations. It is submitted that the BDO and the bank manager along with the *M. Hussain* might have conspired in committing the alleged offences, but the petitioners herein were made victims and were falsely implicated. It is submitted that the police has not implicated the petitioners personally.

**22.** On the other hand, the learned Additional PP, *Mr. Baishya* submits that the investigation has found incriminating materials against the present petitioners as well. The petitioner No. 1 was associated with an NGO named Ashadeep Self Help, and that the petitioner No. 2 was associated with NGO named Life Career Society. It is submitted that the two cheque leaves which were found to be involved in forgery, manipulation, and misappropriation in the instant case belonged to the cheque book, and the original cheque leaf was seized from the respective petitioners. It is submitted that though some time has elapsed, the investigation is proceeding and would reach a conclusion soon, and therefore, it would be unjustified in law and facts to quash the proceedings at this stage.

**23.** I have perused the contentions of the petitioners, the submissions on their behalf, and perused the relevant materials, including the relevant materials collected by the investigation, as available in the case diary.

**24.** The details of the narration in the FIR lodged by the Enquiry officer, *Deba Dutta* have already been mentioned. It is true that the petitioners were arrested after a considerable time of initiation of investigation, but it would be relevant to peruse the grounds of arrest adduced by the IO at the time of forwarding them to the learned remand court after their arrest. The remand order of the learned CJM, Kamrup (M) is dated 28.08.2025.

With regard to petitioner, *Jamaluddin*, it was stated in the forwarding that during investigation of the case, it has come to light that forged bearer cheque No. 028742 and 028743 against an amount of Rs. 49,000/- each had been copied from the original cheque which had been issued by the bank to *Jamaluddin*, Secretary of Life Career Society, Bhagnamari. That, the original leaf of cheque No. 028742 and 028743 have been seized from the possession of *Jamaluddin* in connection with the case. It is further stated that during investigation, sufficient evidence was found against *Jamaluddin* for commission of criminal conspiracy by preparing fake cheque from his original bearer cheque with the help of other accused persons and misappropriated the government fund, for which he has been arrested in connection with the case.

**25.** With regard to petitioner, *Rashima alias Nurjahan Begum*, it was stated in the forwarding report that during investigation of the case, it came to light that the seized forged bearer cheque No. 28771 of Rs. 25,000/- was paid by the Central Bank of India, Dolibari Branch, and it is a copy of the original leaf of bearer cheque of the said bank issued to *Nurjahan Begum* against her savings bank account No. 2231998782. It is stated that the bearer cheque book of *Nurjahan Begum* has been seized in connection with the case and found available the original leaf of bearer cheque No. 28771 in the seized cheque book. It is stated that during investigation, sufficient evidence was found against *Nurjahan Begum* for commission of criminal conspiracy by preparing fake cheque from her original cheque book with the help of other accused persons for the purpose of misappropriation of government funds.

**26.** From the case diary, I find that the cheque leaves in question of

Central Bank of India, as mentioned earlier, were also forensically examined at the FSL, and the forensic opinion was that the cheque leaves marked as Exhibit A, A1, and A2 are not genuine cheque leaves. It was also opined that the person who wrote the blue enclosed signature stamped and marked A1 and A2 also wrote the red enclosed signatures similarly stamped and marked Q1 to Q3. I have perused the relevant portions of the case diary and also seen the progress of investigation. I have noticed reasonable progress in the investigation. The IO has conducted the investigation in reasonable detail. However, the completion of the investigation is taking unusually long, and therefore, the need of the hour is for the investigation to be brought to a conclusion expeditiously.

**27.** The principles of law governing quashing of FIR are well settled. If the allegations on their face value do not make out any offence, it would be justified to quash an FIR. In the instant case, though the petitioners herein are not named in the FIR dated 11.10.2018 submitted by the Enquiry officer, *Deba Dutta* before the Senior Superintendent of Police, CID, but it cannot be said that the FIR does not disclose allegations. Rather, it discloses serious allegations of misappropriation of public funds pertaining to beneficial schemes of the government. At the same time, the FIR also names BDO *Jitendra Kumar Nath* and others. The petitioners were arrested during the investigation, though after a considerable elapse of time.

**28.** At the stage of investigation, it is always an emerging situation as to in what direction the materials will proceed or emerge. If the investigation does not reveal any incriminating materials against the accused persons,

then perhaps that aspect can also be taken into account to adjudicate the question of quashing of the FIR. However, it has to be kept in mind, as mentioned above, that being an emerging situation, the Court cannot sit in judgment as to whether the remaining investigation would or would not reveal any materials against the accused persons in a particular case.

**29.** Needless to say that, if after completion of investigation no materials are found against some accused persons, the IO would always be within his powers not to send up those accused persons for trial, and that, in fact, in that situation, it would be the duty of the IO to do so. In the instant case, it cannot be said that the investigation so far has not revealed any incriminating materials against the present petitioners, and that the learned Additional PP has also contended on those lines.

**30.** There is no doubt that the principles underlying Article 21 of the Constitution of India encompasses not just a fair trial, but also fair investigation. Therefore, if an investigation is unduly delayed, it could cause prejudice to the accused person, and in a particular case, court may even look into as to whether the investigation itself should be quashed due to delay. Though, it has to be said that in a case of delay, the court can always direct for expeditious completion of the remaining investigation, but whether the delay itself would justify quashing of a criminal proceeding has to be exercised with some circumspection.

**31.** In the case of *Durgesh Chandra Saha v. Bimal Chandra Saha and Others* reported in *(1996) 1 SCC 341*, the Court looked into the provisions of Section 167(5) CrPC as amended in West Bengal, where the Court can stop further investigation and discharge the accused. In my opinion, the said decision would not come to the aid of the petitioners herein,

considering the nature of the allegations and the materials collected by investigation so far.

**32.** The decision in *Pankaj Kumar v. State of Maharashtra and Others* reported in *(2008) 16 SCC 117*, also pertains to the right to speedy trial and investigation, and the interference by the court in a situation of undue delay in the same. However, considering the nature of the materials, though a direction for expeditious conclusion of investigation can be given in the instant case, but it would not be justified in my considered view to put an end to the investigation due to the long delay in completion of investigation.

**33.** The decision in *Sadhupati Nageswara Rao v. State of Andhra Pradesh* reported in *(2012) 8 SCC 547*, *inter alia* discusses the ingredients of criminal breach of trust, including criminal breach of trust by public servant, or banker, or agent. The relevant para 14 may be reproduced herein below.

> *"**14.** In order to prove the offence of criminal breach of trust which attracts the provision of Section 409 IPC, the prosecution must prove that one who is, in any manner, entrusted with the property, in this case as a dealer of fair price shop, dishonestly misappropriates the property, commits criminal breach of trust in respect of that property. In other words, in order to sustain conviction under Section 409 IPC, two ingredients are to be proved,namely,*
>
> i) *the accused, a public servant or a banker or agent was entrusted with the property of which he is duty bound to account for; and*
>
> ii) *the accused has committed criminal breach of trust. What amounts to criminal breach of trust is provided under Section 405 IPC.*
>
> *The basic requirement to bring home the accusations under Section 405 are the requirements to prove conjointly i) entrustment. and ii) whether the accused was actuated by dishonest intention or not, misappropriated it or converted it to his own use to the detriment of the persons who entrusted it."*

**34.** At this stage, the penal provisions given are of conspiracy and criminal breach of trust by agent, etc. However, it is well settled that upon

completion of investigation, even if the petitioners are sent up for trial, the IO may find other penal provisions also with regard to them, and therefore, the said aspect cannot be pre-judged by the court at this stage.

**35.** Lastly, the decision cited by the petitioner side in the case of *Rajiv Thapar and Others v. Madan Lal Kapoor* reported in *(2013) 3 SCC 330*, discusses in para 30 some of the steps to be delineated by the court to determine the veracity of a prayer for quashment raised by the accused in exercise of inherent powers. The relevant para 30 may be reproduced herein below:-

> *"**30.** Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the CrPC.:*
> ***30.1.** Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the material is of sterling and impeccable quality?*
> ***30.2.** Step two: whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?*
> ***30.3.** Step three: whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?*
> ***30.4.** Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?*
> ***30.5.** If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal proceedings, in exercise of power vested in it under Section 482 of the CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused."*

**36.** In the instant case, the Court has carefully perused the allegations in the FIR and the materials gathered during the investigation with regard to the petitioners, and in my considered view, it cannot be said that the

investigation so far has revealed a situation of no evidence to consider exercising the powers of quashing.

**37.** In any case, as already discussed earlier, investigation being an emerging situation, the Court cannot speculate and say that no further materials will emerge against the petitioners by the remaining investigation and proceed to quash the investigation at this stage itself on the basis of the existing materials. To that extent, the aforesaid decision cited by the petitioner side would not come to the aid of the petitioners in support of their prayers.

**38.** Thus, upon perusing the relevant materials, considering the submissions and the case laws, this Court comes to the considered finding that in view of the nature of the allegations and the materials found by the investigation, it would not be justified to quash the investigation altogether at this stage, especially when the IO has conducted voluminous investigation so far, despite the delay.

**39.** Therefore, the prayer of the petitioners for quashing of the FIR and the ongoing criminal investigation is found to be devoid of merit. Consequently, the criminal petitions stand dismissed.

**40.** The undue delay in completion of the investigation is a matter of serious concern, and undoubtedly, it causes some prejudice to the petitioners, who are forced to remain in a state of uncertainty in view of the ongoing investigation. Hence, in the interest of justice, the Investigating Officer of the case is hereby directed to conclude the investigation within a period of six months from the date of this order, i.e., within/on or before 03.05.2027 positively.

**41.** Further, it is directed that during this period also, every two months,

the IO shall submit a brief status report of the investigation before the learned Court below, i.e., the court of the learned CJM, Kamrup (M), Guwahati.

**42.** The criminal petitions stand disposed of vide the common judgment and order on the aforesaid terms.

**43.** Return back the case diary.

**JUDGE**

**Comparing Assistant**