

CR Case 51 of 2025

Order No. 01, dated 20.05.2025

The complainant Maya Barman filed the complaint under Sec. 223 of BNSS against the accused Swapan Deb, Anima Deb, Khokan Deb, Biplab Deb and Rupa Deb alleging commission of offence under Sec. 331(3)/115(2)/303(3)/324(4)/74/3(5) of BNSS.

Court fees is paid.

Vokalatnama and other documents are filed.

Perused.

According to the first proviso of Section 2 to 3 of BNSS, 2023, no cognizance of the offence can be taken by Magistrate without giving an opportunity to the prospective accused of being heard.

Section 212(1) of BNSS also envisaged that CJM/ACJM may after taking cognizance, make over the case for enquiry or trial to any competent Magistrate subordinate to him. However, Section 13(2) BNSS also gave liberty to the CJM/ACJM to make rules or frame special order time to time consistence with BNSS for distribution of business among the Judicial Magistrate subordinate to him.

Section 212(2) of BNSS authorises CJM/ACJM to empower to any Magistrate of the 1st Class to take cognizance of offence and also to make over the case to other competent Magistrate. Analogy of this two sections and Section 13(2) of BNSS envisage that Magistrate of the 1st Class may be empowered by the CJM/ACJM to take cognizance of the offence.

This Court is badly busy and engaged in the first half with filing, hearing and doing trial of plenty of cases, matter under Section 175(3) of BNSS, Section 450 of BNSS and other cases.

Considering such engagement in the first half and considering the police file, hearing in the second half and also several other administrative works, if this Court is burdened with taking cognizance in presence of the accused after issuing notice, functioning of this Court will be cumbersome and smooth running will be hampered.

Thus, by drawing analogy from the ratio and spirit of Section 13(2), 212(2) and 10(2) of BNSS, Ld. Judicial Magistrate, 2nd Court, Dinhata is empowered to take cognizance of offence after adhering to the procedure laid down in Section 2 to 3 (1) of BNSS and its first proviso.

In view of the above discussion, let the case record be registered as complaint case and be transferred to the Court of Ld. Judicial Magistrate, 2nd Court, Dinhata.

To 27.06.2025 for appearance before the Court of Ld. Judicial Magistrate, 2nd Court, Dinhata who is to proceed in accordance with law.

Dictated and Corrected by Me:

A.C.J.M.
2nd Court, Dinhata.

A.C.J.M.
2nd Court, Dinhata.