

GAHC010029852026



2026:GAU-AS:2499

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

Case No. : Crl.Pet./225/2026

JOGENDRA NATH GOYARI
S/O LATE NAMALA RAM GAYARI
VILL- ULUBARI, P.O. SONA PHULI, P.S. SALBARI, IN THE DISTRICT OF
BAKSA, ASSAM, PIN-781318.

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE LEARNED PP, ASSAM

Advocate for the Petitioner : MR S DEWRI, MS T RAMCHIARY, MR H BORAH, MR A DEKA, B R BRAHMA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA

O R D E R

Date : 19.02.2026.

Heard Mr. S. Dewri, learned counsel for the petitioner. Also heard Ms. A. Begum, learned Additional Public Prosecutor, Assam appearing for the State respondent.

This is an application under Section 528 of the BNSS, 2023 praying for quashing

and setting aside the FIR in Jalukbari P.S. Case No.147/1993, the charge sheet No.49 dated 24.06.1995 and the entire proceeding of G.R. Case No.1542/1993, pending in the Court of learned CJM, Kamrup (M) at Guwahati.

It is submitted by Mr. Dewri, learned counsel for the petitioner that the FIR of the present case was lodged in the year 1993, the charge sheet was filed in the year 1995 and the summons were also issued in 1995, wherein the present petitioner entered into his appearance on 28.08.1997. However, two accused persons were shown as absconders and subsequently they got arrested in connection with this case and finally considering abscondence, the case against the two accused persons were filed.

The present petitioner is appearing before this Court since 1998 but the case against him could not proceed further due to non-availability of the case diary, for which the copy could not be served to the present petitioner. However, the learned Trial Court below took all endeavors for production of the case diary and in that regard, the learned Trial Court below also made a note to the DCP, Crime at Guwahati and the DGP to do the needful. But till date, the case diary could not be produced and finding no alternative, the learned Trial Court filed the case against the present petitioner vide order dated 22.09.2023, till the receipt of the case diary from the I.O.

The accused person was a CRPF personnel at the relevant time and at present, he had retired from his service but till date he is not getting his pensionary benefits due to pendency of the case before the learned Trial Court below. Accordingly, the learned counsel submitted that the entire criminal proceeding may be set aside and quashed and the petitioner may be accordingly acquitted

from the said case.

Ms. A. Begum, the learned Additional Public Prosecutor appearing for the State respondent submitted in this regard that the entire proceeding cannot be set aside and quashed at this stage. However, the order for re-construction of the case diary may be passed.

Hearing the submissions made by the learned counsel for the parties, I have also perused the record and the annexure filed with the petition.

It is an admitted fact that the case is pending since more than 30 years and till date, the case could not proceed due to non-availability of the case diary which is reported to be missing from the Circle Office as well as from the police station and it is also not available in the personal file of the I.O. It is also seen that the Court took all endeavors for procuring the case diary and letter was also written to the DCP, Crime at Guwahati as well as to the DGP for production of the case diary. Finding no other alternative, the learned Trial Court below has filed the case against the present petitioner till the receipt of the case diary.

But from the submission made by Mr. Dewri, the learned counsel for the petitioner, it is seen that he is facing some difficulties after his retirement, as he is not receiving his pensionary benefits/pension for pendency of the present case. But the case is of very serious in nature, wherein the allegation of murder is involved and without recording any evidence or without proceeding, it cannot be directed that the learned Trial Court below to dispose of the matter and the entire proceeding cannot be quashed at this stage.

However, the learned Trial Court below is hereby directed to pass necessary

direction to the I.O. as well as the concerned Police Station to do the needful for reconstruction of the case diary, on the basis of the materials which are available in the case record. In the same time, the learned Trial Court below will also verify as to whether any copy of the case diary is attached along with the case itself.

With the above direction, the present criminal petition stands disposed of.

JUDGE

Comparing Assistant