

GAHC010032742026



undefined

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

Case No. : Crl.Pet./245/2026

DEWAN SAMSUL HOQUE
SON OF LATE DEWAN ABDUL AZIZ RESIDENT OF LATE DEWAN ABDUL
AZIZ RESIDENT OF WARD NO 13 GURUNANAK NAGAR NORTH
BONGAIGAON PO PS AND DIST BONGAIGAON ASSAM PIN 783380

VERSUS

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

2:SRI SUKDEV SUTRADHAR
SON OF SRI SUBODH SUTRADHAR R/O BOC GATE NORTH BONGAIGAON
PO PS AND DIST BONGAIGAON ASSAM PIN 78338

Advocate for the Petitioner : MR. B J MUKHERJEE, MS R SAHA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA
ORDER

Date : 23.02.2026.

Heard Mr. B.J. Mukherjee, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Addl. P.P., Assam appearing on behalf of the State respondent No.1.

This is an application under Section 528 of the BNSS, 2023 for quashing of the C.R. Case No.34/2023, against the present petitioner and also for setting aside and quashing order of taking cognizance dated 14.07.2023, by the learned CJM, Bongaigaon so far the present petitioner is concerned.

Issue notice to the respondents, returnable within 4 (four) weeks.

Since Mr. Sarma, learned Addl. P.P., Assam has entered appearance and accepted notice on behalf of the State respondent No. 1, no formal notice is required to be issued to the said respondent. However, he shall be provided with requisite extra-copy of the petition during the course of the day.

Petitioner shall take steps for service of notice on respondent No. 2 by speed post as well as through usual process within 3 (three) working days from today.

Also, call for the scanned copy of the Trial Court Record. Registry will do the needful.

Mr. Mukherjee, the learned counsel for the petitioner submitted that initially one FIR was lodged with some allegations of impersonation but after inquiry, the police filed final report against all the accused persons in the said case, wherein on receipt of the notice, the complainant appeared and stated that he has objection in accepting the final report. Thereafter, without filing any written objection, cognizance was taken by the learned Trial Court below against the accused persons including the present petitioner who was discharging his duty as a Notary Public at the relevant time of incident. Further, he submitted that as per Section 13 of the Notaries Act, 1952, the cognizance cannot be taken by any Court except complaint in writing made by the Central Government or by the

State Government, by general or special order on his behalf. But in the instant case, the cognizance was taken only on the basis of a complaint/FIR lodged by the complainant. Accordingly, the learned counsel for the petitioner submitted that the further proceeding may be stayed in respect of the present petitioner till the disposal of the present petition.

Mr. Sarma, learned Addl. P.P., Assam raised objection and submitted that it is not at all a case for passing any order of stay and submitted that after recording the statement of the complainant and the witnesses, the cognizance has been taken by the learned CJM, Bongaigaon. Further, he submitted that raising this issue, one criminal revision petition was also filed before the learned Sessions Judge, Bongaigaon wherein also it was observed that there is no mistake in taking cognizance by the learned Trial Court below.

In that context, Mukherjee, the learned counsel for the petitioner submitted that in the said order only the Rule 13 has been discussed but the issue was only taking cognizance where there is a bar under Section 13 of the Notaries Act.

However, considering the submissions made by learned counsel for both sides and also considering the nature of offence, this Court is of the opinion that no stay order can be passed at this stage. The interim may be considered on appearance of the other side and on receipt of the case record.

Let the matter accordingly be listed along with the Crl. Pet./1168/2024.

The Registry will do the needful.

List accordingly.

JUDGE

Comparing Assistant