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

**Case No. : Crl.Rev.P./181/2025**

SRI SANTOSH BORO  
S/O LATE BANARAM BORO, R/O RUDRESWAR, RANGMAHAL UNDER  
KAMALPUR POLICE STATION IN THE DISTRICT OF KAMRUP, ASSAM.

VERSUS

SABITA BAISHYA BARUAH  
D/O HEMANTA KR. BARUAH, R/O QTR. NO. 129, G.C CAMPUS, GAUHATI  
UNIVERSITY, GUWAHATI -14, UNDER JALUKBARI POLICE STATION IN  
THE DISTRICT OF KAMRUP (M), ASSAM.

2:THE STATE OF ASSAM  
REP. BY THE PP  
ASSA

**Advocate for the Petitioner** : MS. PUBALI SAIKIA, MR. P. CHOUDHURY

**Advocate for the Respondent** : ,

Linked Case : I.A.(Crl.)/522/2025

SRI SANTOSH BORO  
S/O LATE BANARAM BORO  
R/O RUDRESWAR  
RANGMAHAL UNDER KAMALPUR POLICE STATION IN THE DISTRICT OF  
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Advocate for : MS. PUBALI SAIKIA  
Advocate for : appearing for SABITA BAISHYA BARUAH

**BEFORE**  
**HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

**ORDER**

**Date : --28.05.2025**

Heard Mr. P. Choudhury, the learned counsel for the petitioner.

- 2.** The petitioner Sri Santosh Boro has filed this application u/s 442 read with Section 438 of BNSS, 2023 with prayer for suspension of order as the petitioner is aggrieved by judgment and order dated 02.11.2024 passed by learned Sessions Judge, Kamrup (M), Guwahati dismissing the appeals being Criminal Appeal No. 38/2023 and the Criminal Appeal No. 40/2023 convicting the petitioner and thereafter enhancing the compensation.
- 3.** It is submitted on behalf of the petitioner that the PW-1 has admitted that the petitioner has paid the amount of Rs. 7 lakhs to another person, namely Sanjay Daimary. The petitioner had not adduced any evidence but in his

statement u/s 313 Cr.PC he has clearly mentioned that the amount was paid to Sanjay Daimary relating to an agreement for purchasing a plot of land. The cheque which was returned due to insufficiency of funds was not in discharge of legally enforceable debt. The petitioner has also submitted the certified copy of the order date 27.07.2023 in Criminal Appeal No. 38 of 2023 which clearly reflects the petitioner has deposited an amount of Rs. 80,000.- being 20% of the cheque amount.

- 4.** I have considered the submissions at the Bar with circumspection.
- 5.** Thereafter the operation of the impugned order is stayed till the next date of listing.
- 6.** Issue Notice to the respondents, returnable within 4 weeks.
- 7.** Call for the records of C.R. Case No. 1256 of 2019, Criminal Appeal No. 38 of 2023 and Criminal Appeal No. 40 of 2023.
- 8.** The certified copy order in connection with Criminal Appeal No. 38 of 2023 will form a part of this record.
- 9.** List the matter after 4 (four) weeks.

**JUDGE**

**Comparing Assistant**