

GAHC010077942026



2026:GAU-AS:5647

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

Case No. : Crl.Pet./571/2026

HAFIZUR RAHMAN AND ANR
SON OF SOMED ALI MONDAL

2: MORIOM NESSA @ RUPALI KARMAKAR
W/O HAFIZUR RAHMAN
BOTH ARE R/O VILL- KURSHAKATI P.S. LAKHIPUR
DIST. GOALPARA
ASSAM

VERSUS

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

2:ABDUL KADER
SECRETARY OF AOLATOLI GAON PANCHAYAT

S/O LATE OMAR ALI
VILL- TARANGAJHAR
P.S. FAKIRGANJ
DIST. DHUBRI
ASSAM
PIN-78333

Advocate for the Petitioner : MR. A Z AHMED, MR. A KHALEK

Advocate for the Respondent : PP, ASSAM,

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

24.04.2026

Heard Mr. A.Z. Ahmed, the learned counsel appearing for the petitioners. Also heard Mr. Bidyut Sharma, the learned Addl. Public Prosecutor, Assam.

2. This is an application under Section 528 of the BNSS, 2023 praying for quashing the proceedings of Special (POCSO) Case No.69/2025 pending in the court of the learned Addl. District & Sessions Judge, Goalpara (arising out of Lakhipur P.S. Case No.98/2025).

3. On 19.09.2025, the Respondent No.2 had lodged an FIR before police alleging that the present petitioner Hafizur Rahman had married the 17 year old other petitioner i.e. petitioner no.1. Accordingly, police registered the case under the provision of Prohibition of Child Marriage Act and POCSO Act. *Charge sheet* was also filed.

4. Today, both the petitioners have submitted that on 16.02.2026 they got married under the provisions of Special Marriage Act. The certificate of the Marriage Officer has been enclosed with this record as Annexure-7.

5. Both the petitioners have submitted that they are now living peacefully as husband and wife. The girl has submitted that she does not want her husband to be punished for the alleged offence. It may be mentioned that the girl is now 25 years old.

6. I have considered the submissions made by the learned counsel of both sides.
7. The guidelines for consideration of a petition under Section 482 of the CrPC has been laid down by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal*, AIR 1992 SC 604. Paragraph 102 of the judgment reads as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

8. Reverting to the case in hand, this Court is of the opinion that under the given circumstance, the petitioner Hafizur Rahman shall never be convicted in this case. Thus, allowing the criminal proceedings to continue before the trial court would be an abuse of the process of the Court. This is a fit case for exercising the extra-ordinary powers under Section 528 of the BNSS, 2023.

9. Accordingly, the proceedings of Special (POCSO) Case No.69/2025 pending in the court of the learned Addl. District & Sessions Judge, Goalpara (arising out of Lakhipur P.S. Case No.98/2025), is quashed and set aside.

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

JUDGE

Comparing Assistant