

GAHC010131982024



IN THE GAUHATI HIGH COURT
HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH

CRL.REV.P./284/2024

1. Shubham Panday,
S/O Late Omprakash Panday,
R/O 251 Janta Quarter Stadium Ground,
Nanda Nagar, Indore, District-Indore,
Madhya Pradesh, Pin-452011.

.....Petitioner

-Versus-

1. The State of Assam
Represented by The Public Prosecutor, Assam
2. Officer-In-Charge
Tinsukia Police Station
P.O. and P.S.-Tinsukia,
District-Tinsukia
Assam, Pin-786125

.....Respondents

For Petitioner : Mr. S. Nath, Advocate
For Respondents : Mr. K. Baishya, Additional Public Prosecutor
Date of Judgment : 24.09.2025

**BEFORE
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
JUDGMENT**

- 1.** Heard Mr. S. Nath, the learned counsel for the petitioner. Also heard Mr. K. Baishya, the learned Additional Public Prosecutor for the State Respondent.
- 2.** This application under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, has been filed by the petitioner, namely, Sri Shubham Pandey, impugning the order dated 20.02.2024, passed by the Court of the learned Chief Judicial Magistrate, Tinsukia, in Tinsukia P. S. Case No. 34/2023, whereby the prayer for further investigation made by the petitioner was rejected.
- 3.** The facts relevant for consideration of the instant Revision Petition, in brief, are that on 18.01.2023, the petitioner, namely, Shubham Pandey, has lodged an FIR before the Officer-in-Charge of Panitola Police Outpost under Tinsukia Police Station, alleging that on 13.12.2022, at about 11.00 pm, when his brother, Mayank Pandey, was going from Tinsukia towards Dibrugarh on a motorcycle bearing Registration No. AS-06-H-2737, it was hit by a Alto Maruti car bearing Registration No. AS-04-G-9680, which was coming from opposite direction at a very high speed. It is also stated in the FIR

that in the said accident, the brother of the petitioner sustained serious injuries and later on, he succumbed to his injuries.

4. On the basis of the said FIR, the Tinsukia P. S. Case No. 34/2023 was registered under Sections 279/304A of the Indian Penal Code and investigation was initiated. Ultimately, on completion of the investigation, the Final Report was submitted in this case.
5. In the Final Report, the Investigating Officer has stated that during investigation it was found that the Maruti Alto car bearing Registration No. AS-04-G-9680 was standing on the side of the spot of the accident and the motorcycle bearing Registration No. AS-06-H-2737 was coming from the opposite direction. It was also found by the Investigating Officer during the investigation that the accident occurred as an unknown truck caused the accident and sped away, due to which the bike rider collided with the standing Alto car.
6. When the said Final Report was submitted before the learned Chief Judicial Magistrate for accepting the same, the present petitioner had filed a protest petition, which was registered as Petition No. 922/3034, in which it was alleged that the investigation was not carried out properly and the photographs of the seized Alto vehicle itself shows that the damage was caused in the front side of the said car, which suggests that there was a head on collision. The petitioner prayed for further investigation into the case and also

prayed for rejecting the FR. However, by order dated 20.02.2024 passed in Tinsukia P. S. Case No. 34/2023, which has been impugned in the instant case, the learned Chief Judicial Magistrate, Tinsukia rejected the protest petition filed by the present petitioner and accepted the Final Report (FR).

7. The learned counsel for the petitioner has submitted that the Trial Court has erred in accepting the FR in as much as there was clear evidence on record to show that the investigation was not carried out properly by the Investigating Officer. The learned counsel for the petitioner submits that the Final Report appears to be contradictory as on the one hand, it suggests that the accident was caused by an unknown truck, which sped away after causing accident. On the other hand, it also suggests that the motorcycle had crashed against the standing Alto car.
8. The learned counsel for the petitioner has further submitted that the finding of the Investigating Officer in the final report is also contradictory to the police report dated 14.11.2024, which was submitted by the Officer-in-Charge of Tinsukia Police Station wherein it was stated that on 13.11.2024 an accident took place at A.T. Road, Panitola where the Hunk motorcycle bearing registration No. AS-06-H-2737 coming from Tinsukia side collided head on against a Maruti vehicle bearing Registration No. AS 04 G 9680 coming from the opposite direction.

9. The learned counsel for the petitioner has also submitted that in the case during the investigation the Investigating Officer did not examine the occupant of the Maruti Alto car. He also submitted that the photograph of the Maruti Alto car after the accident itself suggests that there is a damage on the front side of the said vehicle, which indicates that there was a head on collision of the said vehicle with some other object.
10. The learned counsel for the petitioner submits that the Trial Court has failed to exercise its jurisdiction vested in it for directing a further investigation. Hence, he prays for setting aside the impugned order and directing the further investigation.
11. On the other hand, the learned Additional Public Prosecutor, Mr. K. Baishya, has submitted that the Trial Court has passed the impugned order after perusal of the case diary and after finding that the investigation was properly conducted.
12. However, he fairly submits that in the case diary there is no indication as to whether at the time of alleged accident there were any occupant in the Maruti car or not and if there were some occupant, whether they got injury and whether their statement are recorded or not is not reflected in the case diary.
13. I have considered the submissions made by the learned counsel for both sides and have gone through the records of GR Case No.

67/2023 along with the case diary of Tinsukia P. S. Case No. 34/2023, which were called for in connection with this case.

- 14.** It is a well-settled legal proposition that while exercising the revisional jurisdiction, this Court would only see the legality or propriety and correctness of the impugned order. It will only see as to whether while passing the impugned order, the Court below had kept itself within the bounds of its jurisdiction including the question whether the Court has failed to exercise the jurisdiction vested in it.
- 15.** In the instant case by the impugned order, while accepting the Final Report submitted by the Investigating Officer, the Court of the learned Chief Judicial Magistrate, Tinsukia, had also gone through the case diary and has come to the finding that the conclusion arrived at by the Investigating Officer is on the basis of the materials collected during the investigation.
- 16.** It appears that the Investigating Officer had examined the witnesses who had seen the accident, including the driver of the Maruti Alto vehicle bearing Registration No.AS-04-G-9680. It appears that on perusal of the case diary that the witnesses who were examined by the Investigating Officer during the course of investigation had indicated that the motorbike which was driven by the deceased Mayank Pandey tried to overtake a truck and, thereafter, it hit the Alto Maruti vehicle which was parked on the side of the road. As there are materials in the case diary to indicate

that the motorcycle hit the parked Maruti Alto vehicle, the mere fact that the front side of the Maruti Alto vehicle was damaged may not be a ground for directing a further investigation.

- 17.** After perusal of the case diary, this Court is of considered opinion that the Investigating Officer submitted the Final Report on the basis of the materials collected by him during the course of the investigation and the Court of the learned Chief Judicial Magistrate, Tinsukia had also, while passing the impugned order, stated the reason for accepting the Final Report. The reasons shown in the impugned order are corroborated by the materials available in the case diary.
- 18.** For the reasons discussed in the foregoing paragraphs, this Court is of the considered opinion that there is no irregularity or illegality in passing the impugned order by the Court of the learned Chief Judicial Magistrate, Tinsukia.
- 19.** In view of the above discussion, this Court is of the view that this is not the fit case where the revisional powers of this Court may be exercised for interfering with the impugned order.
- 20.** This Revision Petition is, accordingly, dismissed.
- 21.** Send back the case diary to the Trial Court along with a copy of this judgment.

JUDGE

Comparing Assistant