

GAHC010164582025



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

Case No. : Crl.Pet./919/2025

SMTI KANIKA HOJAI AND ANR
W/O SHRI DEBOLAL GORLOSA, VILLAGE - KANAPARA, P.O/P.S -
MAIBANG, DISTRICT - DIMA HASAO, ASSAM, PIN - 788831.

2: SHRI DEBOLAL GORLOSA
SON OF LATE PROBhat GORLOSA
RESIDENT OF VILLAGE - KANAPARA
P.O/P.S -MAIBANG
DISTRICT - DIMA HASAO
ASSAM
PIN - 788831

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM.

2:SHRI PITUSH LANGTHASA
S/O LATE LAIBANON LANGTHASA
R/O VILLAGE - DIMALIK RAJI
HAFLONG
P.O/P.S -HAFLONG
DISTRICT - DIMA HASAO
ASSAM
PIN - 788819.

3:SHRI KOME KEMPRAI
R/O VILLAGE - DEMADAO WAPU
P.O/P.S - DEHANGI
DISTRICT - DIMA HASAO - 788819

Advocate for the Petitioner : MR B D DAS, MR. D THAOSEN,MR H K SARMA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

14.08.2025

Heard Mr. B.D. Das, learned Senior Counsel assisted by Mr. D. Thaosen, learned counsel for the petitioners and Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent no. 1, State of Assam.

2. This criminal revision petition under Section 528 read with Section 438 of Bharatiya Nagarik Suraksha Sanhita [BNSS], 2023 is preferred by the petitioners seeking quashing of a First Information Report [FIR], lodged on 10.01.2025 and registered on 13.04.2025 as Umrangso Police Station Case no. 08/2025 for the offences under Sections 303[2]/106[1] of Bharatiya Nyaya Sanhita [BNS], 2023. The petitioners have also assailed an Order dated 20.03.2025 passed by the Court of learned Chief Judicial Magistrate, Dima Hasao in Criminal Misc. Case no. 01/2025.

3. Before advertng to the contentions raised on behalf of the petitioners, it is relevant to mention that an unfortunate incident had occurred at 3 Kilo area in and around Umrangso on 06.01.2025. The case papers indicate that the said incident had occurred from activities of mining carried out in that area and the process adopted for mining was rat-hole coal mining. The incident resulted in tragic loss of twenty persons who were engaged as labours in the activities of coal extraction illegally from the well-type pit hole and got trapped in the pit under water.

4. One Senior Manager, Technical from M/s Assam Mineral Development Corporation Limited [AMDCL], a Government of Assam Undertaking, lodged a First Information Report [FIR] on 06.01.2025 before the Officer In-Charge Umrangso Police Station reporting inter-alia about the unfortunate incident, which had occurred on 06.01.2025, mentioned above. In the

FIR, it was reported that the concerned area, Kalamati is at a distance of one kilometre approx. from the AMDCL's Garampani Coal Mine Block. In the FIR, the informant had reported that nos. of persons were trapped inside the well-type pit hole under water. The informant further reported that the type of mining which was being carried out was very dangerous and the activities were being undertaken without any kind of permission from the Directorate of Geology & Mining, Assam or any other competent authority. The informant requested the Police authorities to undertake operation to rescue the trapped labourers from the pit hole mine.

5. On receipt of the FIR, the Officer In-Charge, Umrangso Police Station registered a case, Umrangso Police Station Case no. 02/2025 for the offences under Sections 3[5]/105, BNS read with Section 21[1] of Mines, Mineral [Development and Regulation] Act, 1957 and investigation was carried out thereafter. It is stated that during the course of investigation, twelve persons suspected to be involved in the activities of illegal rat-hole coal mining, were arrested. Subsequently, those twelve arrested accused persons were allowed to go on bail by Order dated 27.02.2025 and other subsequent orders. It has further emerged that the Investigating Officer [I.O.] of the case, Umrangso Police Station Case no. 02/2025, after carrying out the investigation, submitted a charge-sheet for the offences under Sections 105/303[2]/61[2]/3[5] of BNS read with Section 3 of the Prevention of Damage to Public Property Act, 1984. It is, however, not known from the materials on record as to when such charge-sheet has been submitted and who has/have been charge-sheeted.

6. The genesis of the present lis is another FIR lodged by two informants [the respondent no. 2 and the respondent no. 3] before the Officer In-Charge, Umrangso Police Station on 10.01.2025 which has been registered as Umrangso Police Station Case no. 08/2025 on 13.04.2025. In the said FIR, the informants referring to the incident which had occurred in and around 3 Kilo area on 06.01.2025 due to alleged rat-hole coal mining activities, had stated that as a result of the said incident, there was tragic loss of twenty lives due to illegal rat-hole coal mining, an illegal activity. The informants purportedly basing on credible information and documentary evidence, had alleged that the petitioner no. 1 who is the wife of the petitioner no. 2, present Chief Executive Member [CEM] of Dima Hasao

Autonomous Council, was directly involved in the allegedly illegal rat-hole coal mining at 3 Kilo area.

7. It has been projected on behalf of the petitioners that the petitioner no. 1 is only an approved licensee by virtue of a Deed of Agreement dated 22.07.2020 executed with M/s Assam Mineral Development Corporation Limited [AMDCL] and as per the license, the petitioner no. 1 can only store, sell and trade coal and also can procure coal from open market. It is further contended that the petitioner no. 2 has been implicated in the FIR without any kind of credible materials. It is further contended that the FIR lodged on 10.01.2025 is with regard to the same incident, which had occurred on 06.01.2025. The incident is already subject-matter of investigation in Umrangsu Police Station Case no. 02/2025. It was pursuant to an Order dated 20.03.2025 passed by the learned Chief Judicial Magistrate, Dima Hasao, Haflong, the FIR dated 10.01.2025 came to be registered as Umrangso Police Station Station Case no. 08/2025 under Section 303[2]/106[1], BNSS belatedly on 13.04.2025.

8. It is contended by the learned Additional Public Prosecutor that the FIR lodged on 10.01.2025 has been registered pursuant to the Order dated 20.03.2025 passed by the learned Chief Judicial Magistrate, Dima Hasao, Haflong after the informants preferred an application under Section 175[3], BNSS. Upon consideration, the learned Magistrate had found that the contents of the FIR lodged on 10.01.2025 are indicative of a larger conspiracy.

9. The matter would require consideration.

10. Issue notice, returnable on 10.09.2025.

11. As Mr. Goswami, learned Additional Public Prosecutor has appeared and accepted notice in respect of the respondent no. 1, issuance of formal notice in respect of the respondent no. 1 is dispensed with. The learned counsel for the petitioners shall serve a copy of the petition along with annexures, to Mr. Goswami within 3 [three] working days from today.

12. The petitioners shall take steps for service of notice upon the respondent no. 2 and the respondent no. 3 by registered post with A/D within 3 [three] working days from today.

13. When the petition was moved on 31.07.2025, the learned Additional Public Prosecutor was requested to obtain a status report of investigation pertaining to Umrangso Police Station Case no. 08/2025. The status report from the I.O. of the case & Additional Superintendent of Police [Crime], Dima Hasao, addressed to the Public Prosecutor, has been placed before the Court. In the Report, it is mentioned that both the FIRs are with regard to the same incident but the second FIR has indicated about a large conspiracy.

14. Admittedly, both the FIRs registered as Umrangso Police Station Case no. 02/2025 and Umrangso Police Station Case no. 08/2025 are about the same unfortunate incident which had occurred on 06.01.2025 in and around 3 Kilo area of Umrangso. The FIR lodged in connection with Umrangso Police Station Case no. 02/2025 had set the machinery of criminal prosecution into motion and investigation commenced thereafter. It is stated at the bar that after completing the investigation of the case, Umrangso Police Station Case no. 02/2025, the I.O. has already submitted a charge-sheet and also made a prayer to carry out further investigation of the case, which is permissible under Section 193[9], BNSS.

15. Law is settled on the point that in respect of one particular incident of crime, there can be registration of one FIR, unless any other FIR projects a different version or a larger conspiracy. It is a settled proposition that on completion of investigation and on the basis of the evidence collected, the I.O. has to form an opinion under Section 189 or Section 190, BNSS [earlier, Section 169 or Section 170, CrPC], as the case may be, and forward his report to the Magistrate concerned under Section 193[2], BNSS [earlier, Section 173[2], CrPC]. However, even after forwarding of such report if the I.O. comes across any further information or material, he is not required to register a fresh FIR as he is empowered to make further investigation, normally with the leave of the court, and if during further investigation, he collects further evidence, oral or documentary, he can forward the same with one or more reports which are ordinarily termed as supplementary charge-sheet[s]

under Section 193[9], BNSS [earlier, Section 173[8], CrPC].

16. In the case in hand, the I.O. has already made a prayer for further investigation. Apparently, the FIR lodged on 10.01.2025 is the second FIR in respect of the same incident, which had occurred on 06.01.2025.

17. From the propositions laid down in T.T. Antony vs. State of Kerala, [2001] 6 SCC 181, and Babubhai vs. State of Gujarat, [2010] 12 SCC 254, it can be noticed that if after registration of the FIR and/or submissions of the report, any further information is given to the Officer In-Charge of a Police Station in respect of the same incident, the Officer In-Charge shall not treat the same as second FIR in respect of the same incident as all the information given, oral or written, after the commencement of the investigation into the same incident can be treated as the statement falling under Section 162, CrPC [Section 181, BNSS].

18. In view of the facts emerging from the materials on record and the settled proposition of law, this Court is of the considered view that the petitioners have been able to make out a prima facie case for interim relief. It is accordingly ordered, in the interim, that the criminal prosecution commenced in connection with Umrangso Police Station Case no. 08/2025 shall remain stayed till returnable date.

19. The case diary received by the learned Additional Public Prosecutor is to be returned.

20. List the case on 10.09.2025.

JUDGE

Comparing Assistant