

GAHC010177952025



2026:GAU-AS:2178

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

Case No. : Crl.Pet./1103/2025

MANISH KUMAR JHA AND 3 ORS
SON OF JIVENDRA JHA
R/O A-10ABIRKUNJ APARTMENT, ZOO ROAD, PIN-781025, DIST. KAMRUP,
ASSAM

2: PRABIN KUMAR SETHY
S/O LATE MADHU SUDAN SETHY
R/O JAMUJODI
P.O. BADANUAGAO
P.S. HARICHANDANPUR
DIST. KEONJHAR
ODISHA
PIN-758028
PRESENTLY RESIDING AT BORTHAKUR MIL ROAD
ULUBARI
GUWAHATI.

3: SHAMIM REYAZ
S/O MD. SALIM
R/O R 62/1 METIA BRUJ HIGH SCHOOL LANE
GARDEN REACH ROAD
KOLKATA.

4: SHAMSHAD AHMAD
S/O LATE S M ALI AHMAD
R/O H-404
JAIPURIA SUNRISE
GREENS APARTMENT
INDRAPURAM
AHINSA KHAND
GHAZIABAD

VERSUS

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

2:RIMA DUTTA
W/O DEBOPRIYO DUTTA
R/O H. NO. 9
HIRONMOYEE KUTIR

ANANDA NAGAR
GMCH ROAD
GUWAHATI-05

Advocate for the Petitioner : Mr. P.K. Goswami, Sr. Adv

Mr. B. P. Borah

Advocate for the respondents: Mr. P. Borthakur

BEFORE
HONOURABLE MR. JUSTICE SANJEEV KUMAR SHARMA

Date on which judgment is reserved: 07.02.2026

Date of pronouncement of judgment: 16.02.2026

Whether the pronouncement is of

the operative part of the judgment?: No

Whether the full judgment has been pronounced: Yes

JUDGEMENT & ORDER (CAV)

1. Heard Mr. P.K. Goswami, learned senior counsel assisted by Mr. B. P. Borah, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned counsel for the respondents.

2. This criminal revision petition has been preferred seeking quashing of the proceedings initiated on the basis of an FIR dated 28.04.2025 lodged by one Rima Dutta which was registered as Bhangagarh P.S. Case No. 108/2025

registered under Section 61(1)/316(2)/336(3)/340(2)/3(5) of BNS, 2023 wherein charge-sheet has been submitted against the present petitioners.

3. It is stated that the accused/petitioner No. 1 and 2 are the Chief Manager, 3 and 4 are Senior Manager and Assistant General Manager (then ZIAD Head) of the Zonal Internal Audit Division (ZIAD), Bank of Baroda, Rajgarh, Guwahati. Their duties and functions primarily involve conducting internal audits of the bank branches allotted to them, with a focus on detection of serious irregularities such as reckless financing, violation of lending powers, mis-utilisation of funds etc., regulatory non compliances, non -compliance of banks internal policies, operations, transactions and submit the inspection report for corrective action and compliance, preventing the Bank from underlying risks and financial losses.

4. In the instant case, the Risk Based Internal Audit (RBIA) of Fancy Bazar branch was allotted on 13.12.2024 and audit of the branch commenced on 18.12.2024. Several serious irregularities surfaced during the course of audit including Multiple violations of exceeding the lending powers, Mis-utilisation/diversion of public funds, reckless financing, accepting fabricated work orders for sanction of credit facility, Staff related suspicious credit transactions were also observed with the borrowers in the account of Mrs. Rima Dutta (informant) spouse of Mr. Debopriyo Dutta, Sr. Manager who previously worked at Fancy Bazar as Credit Head.

Based on the severe irregularities reported by the auditors, Special Observation letter(SOL) was issued to General Manager (Zonal Head)of NES Zonal office, Guwahati on 20.02.2025 by ZIAD Head to investigate the findings in details. The investigation was conducted by Internal Auditors of ZIAD and

final report was submitted on 21.04.2025 to Central Audit Department, Mumbai for further course of action. Version call were sought from Debopriyo Dutta and Nine other Bank officials before submission of the report as per the Bank guidelines.

5. The materials allegations found against Mr. Debopriyo Dutta was for recommending proposals beyond the discretionary lending powers of the branch, Non - compliance of due diligence in sanctioning credit facilities, not ensuring end use of funds as per sanction terms and conditions along with suspicious transaction of Rs.1.43 lakhs which was credited into savings account of Mrs. Rima Dutta from the accounts of the borrowers.

6. Another serious allegation was regarding the source of funds and genuineness of the transactions amounting to Rs. 10.31 lakhs which were deposited in cash to Mrs. Rima Dutta's savings account from Bank of Baroda branches including from branches where Mr. Debopriyo Dutta remained posted and was incorporated in the version call. There are also other allegations of serious irregularities against Mr. Debopriyo Dutta.

7. The auditors submitted the RBIA report to the Regional Head Guwahati on 10.03.2025 for rectification and detailed investigation report was submitted to the General Manager and Zonal Head on 22.04.2025. The audit and investigation were conducted as per Banks internal guidelines complying with RBI and CVC guidelines. The entire process of internal inspection and investigation were carried out in a transparent manner with adequate approvals and vetting by appropriate authorities before final submission complying with the bank's guidelines.

8. As per the bank's policy and a circular issued by the Disciplinary Proceeding

Department dated 27/12/2023, the petitioners are authorized to examine suspicious transactions related to staff and their family members. As per the SOP, such transactions are considered misconduct.

9. Based on the findings as above, the bank issued an email to Mr. Mr. Debopriyo Dutta On 08.04.2025 but no suitable reply was received. However upon receipt of the notice from the bank the informant Mrs. Rima Dutta wife of the Mr. Debopriyo Dutta lodged an FIR at Bhangagarh police station on 28.04.2025 which was recorded as GD entry No.16/25.

10. As part of the preliminary inquiry, the police issued a notice under Section 94 of the BNSS requesting documents, including the audit report, which the bank provided. However, the I.O. without any proper investigation, has proceeded to submit charge-sheet, submits learned senior counsel for the petitioners.

11. Before dealing with the submissions on behalf of the petitioner it would be apposite to reproduce the FIR lodged by the complainant:-

Subject to FIR

Madam / Sir,

With due respect, I beg to inform you regarding conduct of below named persons. who being Bank of Baroda employees had illegally accessed my personal savings bank account details and thereafter with the intent cause injury to my reputation had implicated my name in certain intra-bank investigation carried out against my husband, who is also an employee of the Bank of Baroda.

The below named bank employees have accessed and implicated transactions which were carried out prior to my marriage and when I had no connection with my present husband. These acts have been done with full intent and by conspiring to cause me the

harm. I have had no relations with my husband prior to marriage in the year 2023 May and therefore, the persons named above, legally could not have accessed my private details and then use them to me to malign my image and reputation and cause mental harassment

May I further, bring to your notice that in communications issued to my husband by the Bank Of Baroda has details of "the transactions" those ensued prior to "2023 May" amplifying the fact that the below named employees with the intent to cause E he injury to my reputation and otherwise has used said information. The bank employees being public servant and in a fiduciary relationship should not breached that trust and cause me injury and such act is outright illegal and calls for exemplary punishment.

I being a member of the Jorhat Bar Association and a practicing advocate has my own income and there are no transactions which are linked to my husband Further, while the Bank of Baroda employees named below, without even bothering to inform me once and with full impunity has recorded and implicated my name in an intra-bank enquiry / investigation for transactions which were prior to May 2023. Such an action has jeopardized my career prospects and has also caused huge loss in reputation, i.e. in a profession where the reputation is the real currency. Their act has also infringed upon by privacy and this was done intentionally. They have additionally conspired to fabricate my transaction details as per their convenience so as to cheat the management of Bank of Baroda in believing that some untoward incident has taken place and implicated an intra-bank enquiry/investigation in the said matter.

Therefore, in the above background of the facts, I would like to pray before your good office to take appropriate actions against the persons named below for they have infringed in to my right to privacy, falsely implicated me for act(s) which has reconnection with their investigations, Conspired against me forged documents, breached my trust misuiled their authority, caused loss of reputation and defamed me Further, I may bring to your notice that the act has been done only to cause mental harassment to me knowing that I am in advance stage of my pregnancy. Needless to state that the intent of the below named persons are only to cause trouble to our conjugal life and pregnancy by causing unnecessary stress to me. While there may be personal enmity with my husband the below persons have no right to cause trouble to my life and my right to bear a child without trouble and also to deliver it safely. Therefore, I further urge that your good office may take note of their intent to cause harassment to me and to inflict unnecessary complication to my life and my right to be a mother without trouble. The intent in clear from their act of considering transactions of my own account prior to marriage for investigating my husband and then malign my image by labelling me in the said realm of doubt.

I also fear that the below named persons might use the personal account details with others and other public forum to cause me further losses by causing threat to safety of my hard earn money and also to me life and as I left with no choice, Tam here seeking justice.

I am therefore, seeking justice from the persons named below.”

12. The petitioner No.1, by filing an additional affidavit has stated that as per the mail received from the Zonal Audit Department (ZAID) dated 07/03/2025, the petitioner was assigned the task of investigation of SOL-related issues and in-depth examination of all credit facilities sanctioned during the period from 18.02.2022 to 05.08.2024, during which period Mr. Anand Kr. Singh (EC No. 81245), Chief Manager, and Mr. Debopriyo Dutta (EC No. 90765), Senior Manager, were posted as Branch Head and Credit In-charge, respectively. However, the said mail contained two attachments—(i) Fancy Bazar SOL, and (ii) Final Annexure. The points required to be investigated were mentioned in both the attachments, including matters pertaining to staff-related transactions.

13. Mr. Goswami, learned Senior Counsel for the petitioners has submitted that the preset criminal proceedings are out and out an abuse of the process of the law. Learned Senior Counsel has taken the Court through a gamut of documents annexed to the instant petition to show that the petitioners actions were confined to their official duty as auditors of the bank and they were under direct order of the higher authority to investigate the transaction in question. In that regard learned Senior Counsel has referred to Annexure-A to the instant petition which is a communication from the Chief General Manager and Head-Internal Audit of Bank of Baroda to the General Manager and Zonal Head, Bank of Baroda North-eastern State Zone in respect of issuance of Special Observation Letter (Sol) on observing serious nature of irregularities during risk based Internal Audit of Fancy Bazar Branch, Guwahati region and in the said communication the details of irregularities concerning suspicious transactions in the savings account of the informant who is the wife of Mr. Debopriyo Dutta, Senior Manager amounting to several lacs of rupees were searched.

14. Further, a letter dated 07.03.2025 was issued from the bank authorities to the petitioner No. 2 (Sethy Pravin Kumar) directing him to conduct an investigation in the matter and cover all the credit facilities sanctioned during the period 18.02.2022 to 05.08.2024 where one Mr. Anand Kr. Singh, Chief manager, Mr. Debopriyo Dutta, Senior Manger and husband of the petitioner of the complainant were posted as Branch Head and Credit In-charge respectively and to examine lapses on the part of the controlling office. It was requested to carry out the above investigation as per scope of the letter starting from 10.03.2025 and to submit the report by 15.03.2025.

15. Relying upon the aforesaid documents, it is submitted by Mr. Goswami, learned Senior Counsel that the petitioners were only carrying out their duties as auditors and also as directed by their higher authorities and in course of carrying out their duties which involved investigation into the detected irregularities, the petitioner discovered several instances of malpractices on the part of the husband of the informant who was a Senior Bank Manger at the time. The findings contained in the report submitted by the petitioners clearly revealing several lacs of misconduct on the part of the said individual have been pointed out by Senior Counsel. It is further submitted that from the above, it is evident that the present proceedings have been initiated with a view to wreck personal vengeance upon the petitioners and that none of the offences under which the present FIR has been registered and the charge-sheet has been submitted are attracted even on the face of the contents of the FIR.

16. The case has been registered under the following Sections of the BNS.

- (a) Section 61(1) which relates to criminal conspiracy.
- (b) Section 316 relating to criminal breach of trust.

(c) Section 336 (3) which relates to forgery.

(d)Section 340 BNS concerning forging documents and electronics record and using the same as genuine along with section 3(5) i.e. criminal acts done in further of common intention.

17. As far as criminal conspiracy is concerned, It is clear from the disputed documents on record that the petitioners, all of whom are bank officials, were instructed by their higher authorities to carry out investigation into alleged irregularities and by no stretch of imagination can any element of conspiracy be discerned therein. The offence of criminal breach of trust under Section 316 BNS requires that whoever being in any manner entrusted with property dishonestly misappropriates or converts to his own use such property or dishonestly uses or disposes of that property in violation of any direction of law prescribing in the mode in which such trust is to be discharged. There is absolutely no allegation whatsoever that there was any entrustment of any property of the informant to the petitioners or that any misappropriation or conversion to their own use of any such property of the informant has taken place. Hence, by no yardstick can the said provision be said to be attracted. Section 336(3) BNS provides that whoever commits forgery intending that the document or electronic record forged shall be used for the purpose of cheating shall be punished as prescribed while Section 340 BNS concerns the dishonest and fraudulent use of any forged document or electronic record as genuine. There is a vague allegation in the FIR that the petitioners forged documents, which is wholly devoid of particulars and upon perusal of the charge-sheet submitted by the I.O. no such indication is available as to in what manner and in respect of which document the petitioners have resorted to forgery.

18. In *Pradeep Kumar Kesarwani vs. The State of Uttar Pradesh & Anr. in Criminal Appeal No. 3831 of 2025*, the Apex Court laid down the following steps which should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C./ Section 528 of BNSS:

Step One: Whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

Step Two: Whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

Step Three: Whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant ?

Step Four: Whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

The Hon'ble Supreme Court further held that if the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal – proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C.

Before laying down the above steps, the Apex Court discussed the duty of the court in cases where an accused seeks quashing of an FIR or proceedings

on the ground that such proceedings are manifestly frivolous, or vexatious, or instituted with an ulterior motive for wreaking vengeance which was delineated by the Apex Court in the case of **Mohammad Wajid v. State of U.P.**, reported in **2023 SCC OnLine SC 951**. In the said case, it was observed that:-

“34. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

(Emphasis supplied)”

19. In State of Haryana v. Bhajan Lal, reported in **1992 AIR 604** this

Court has set out the categories of cases in which the inherent power under Section 482 C/PC can be exercised. Para 102 of the judgment reads as follows: (SCC pp. 378-79)

"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 Act concerned (under which a criminal proceeding is instituted) to*

the institution and continuance of the c proceedings and/or where there is a specific provision in the Code or the Act concerned, 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."

20. In the instant case the I.O. has examined the close friends of the husband of the informant and also of the informant herself and none of them are associated with the decision making process of the bank or can be attributed with knowledge regarding the audit process or investigation that are to be carried out upon detection of irregularities. Not a single Senior Official of the bank who would be acquainted with such matters was examined by the I.O. and in the name of documents, the I.O. has mentioned a few vouchers without indicating anything about their particulars in the charge-sheet. Under such circumstances, the material relied upon by the I.O. themselves seems to be incapable of making out any case against the petitioners and therefore, the uncontroverted allegations made in the FIR and the evidence collected in support of the same do not disclose the commission of any offence and make out any case against the accused. Whereas, on the other hand, the material relied upon by the accused, all of which are official documents of the bank, appear to be sound, reasonable and indubitable and would rule out the assertion contained in the charges levelled against the accused. In other words, the materials relied upon by the accused persons which have been annexed to the instant petition would definitely persuade a reasonable person to reject the factual basis of the acquisition as false. The materials also do not stand refuted by the complainant inasmuch as, they are not a creation of the petitioners but undisputedly issued by the bank authorities. The fact that the petitioners were

acting upon the orders of the higher authority to investigate the detected irregularities as evidenced by the annexures referred to hereinbefore cannot conceivably be disputed by the informant/prosecution. All the aforesaid facts leads the Court to the conclusion that proceeding with the trial would result in an abuse of the process of the Court and would certainly not serve the ends of justice.

21. In the state of ***Karnataka V. L. Muniswamy*** reported in ***(1977) 2 SCC 699*** in the Apex Court has held as follows:-

"7. ... In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice."

22. Further in ***Anand Kumar Mohatta and Another Vs State (NCT of Delhi) Department of Home and Anr*** reported in ***(2019) 11 SCC 706***, it was held by the Apex Court that the High Court can exercise its inherent jurisdiction Under section 482 Cr.P.C even when the charge-sheet has been submitted.

23. In view of what has been discussed above, the impugned proceedings cannot be allowed to continue and accordingly the said proceedings arising out of Bhangagarh P.S. Case No. 108/2025 pending before the learned Court below i.e. CJM, Kamrup(M) in PRC No. 3276/2025 is hereby quashed.

24. The criminal petition stands **allowed**.

25. Return the case diary.

JUDGE

Comparing Assistant