

GAHC010197332025



2026:GAU-AS:7475

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

**Case No. : Crl.Pet./1107/2025**

PREM SHANKAR OJHA ALIAS PREM SANKAR OJHA  
S/O LATE BHARAT OJHA  
R/O BUNGALOW NO. 1, HALMARI, TEA ESTATE, P.O. AN DP.S. KHOWANG,  
DIST. DIBRUGARH, ASSAM, PIN-785676

VERSUS

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

2:DR MONSUM KASHYAP  
W/O SRI RANJIT BHATTACHARYA  
R/O LABOUR WELFARE DEPARTMENT  
KHOWANG P.O. AND P.S. KHOWANG

DIST. DIBRUGARH  
ASSAM  
PIN-78617

**Advocate for the Petitioner** : MR N N UPADHYAYA, MR. B B KAKATI,MR. V PANDEY,MR. D K BAGCHI

**Advocate for the Respondent** : PP, ASSAM, MS T PARASHAR,Amicus Curiae for R-2

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

**ORDER**

**Date : 29.05.2026**

1. Heard learned Counsel Mr. N.N.Upadhyay for the petitioner Prem Shankar Ojha Alias Prem Sankar Ojha who has filed the application under Section 528 of the BNSS, 2023 with prayer to quash the FIR dated 08.05.2025 and the charge sheet being Charge Sheet No.4/2025 dated 30.06.2025 and the proceedings of GR case No.491/ 2025, arising out of Khowang PS Case No.04/2025 under Sections 125/281/3(5) of BNS, R/w Section 51 (b) of the Disaster Management Act, read with Section 177 of the MV Act pending in the Court of learned JMFC, Dibrugarh.
2. Learned Additional Public Prosecutor Mr. K.K. Parashar is present for the respondent No.1 and Ms. T. Parashar, learned Amicus Curiae is present for the respondent No.2.
3. An FIR was lodged by the respondent No.2, the then Labour Inspector contending *inter alia* that an accident occurred at NH 37 near Khowang Betoni, wherein a Tata ACE goods vehicle bearing registration No.AS-06-CC-6344 carrying people from Halmari and Duliabam Tea Estate lost control and toppled over. It was further alleged through the FIR that the labourers of the tea estates were carried in a goods carrying vehicle unauthorizedly as per relevant provisions of the Motor Vehicles Act, 1988 and the District Commissioner, Dibrugarh vide order dated DM-29/97/ 2023 –DDM-DBR/63 dated 26.12.2023 had banned the carrying of persons in goods carrying vehicle.

4. It is submitted on behalf of the petitioner that the petitioner was serving as General Manager of Halmari and Duliabam Tea Estates. He is not responsible for the offences as alleged. The FIR was registered as Khowang PS Case No.04/2025 under Sections 125/281/3(5) of the BNS read with Section 51 (b) of the Disaster Management Act r/w Section 177 of the Motor Vehicles Act. It is submitted that the petitioner cannot be roped in under the aforementioned sections of law, more so, when no common intention is discernible. It was not the petitioner, who in furtherance of common intention with the other accused named in the FIR, acted in a rash and negligent manner. The driver of the vehicle is responsible for acting in a rash and negligent manner and the contractor may also be held liable of the offences as stated above. The petitioner was the contractee who handed over the responsibility of carrying the labourers from two different tea estates to the contractor, who is also arrayed as an accused. The petitioner being the Manager of the tea estates of Halmari and Duliabam handed over the responsibility of carrying the labourers to the contractor and the contractor executed his duties which resulted in the unfortunate accident. It is also submitted that after handing over the responsibilities, the petitioner was not aware how and in what manner, the contractor discharged his responsibilities.

5. I have considered the submissions at the bar.

6. It is submitted at the bar that the charge sheet has been laid against the petitioner under Sections 125 (a)/125 (b)/281/3 (5) of the BNS read with Section 177 of the MV Act read with Section 51 (b) of the Disaster Management Act. It is true that the tea garden labourers were being transported from

Halmari and Duliabam Tea Estates on a Tata ACE goods carrying vehicle bearing registration No.AS-06-CC-6344, when the vehicle met with an accident and 17 persons travelling in the vehicle had sustained injuries. It is submitted that the petitioner cannot be held liable for the offences under Sections 125 (a)/125 (b)/281/3 (5) of the BNS read with Section 177 of the MV Act read with Section 51 (b) of the Disaster Management Act as the petitioner is not liable for driving the vehicle or acting in a rash and negligent manner, endangering human life or personal safety of others or he is not responsible for causing grievous hurt to any of the injured persons who were travelling in the vehicle. It is also submitted that in a similar manner, the petitioner cannot be roped under Section 281 of the BNS. It is not discernible that the petitioner in furtherance of common intention with the Contractor acted in such a manner which resulted in the injuries sustained by 17 labourers who were travelling in the goods carrying truck.

7. I find force in the argument of the learned counsel for petitioner that the petitioner cannot be roped for the offence under Section 51 (b) of the Disaster Management Act as the petitioner had already handed over the entire responsibility of transportation of the labourers to the contractor who was responsible for transportation of the labourers in the manner described above.

8. The petitioner also cannot be held liable for the offence under Section 177 of the MV Act. The petitioner has relied on the decision of the High Court of Judicature at Madras in connection with ***Balamurali Krishnan vs the State represented by the Inspector of Police & Ors*** in connection with CRL.O.P No.8427/2017 and CRL.M.P No. 6029/ 2017, wherein it has been held in paragraph 8 as follows:

“8. In *Geetha Ramesh and Ors. Vs. Sub-Inspector of Police, Udagamandalam, (cited supra)*, this Court in para No.8 has held as follows:-

*"9. It is not in dispute that the petitioners were not present in the place of occurrence when the accident took place. It is not the case of the prosecution that either the contractor (A1) or labour sub-contractor (A2) or the workers were under the direct supervision of any one of the petitioners at the time of accident. It is also not the definite case of the prosecution that the petitioners prescribed the dimensions of the earth to be excavated. On the other hand, it is the specific contention of the petitioners that after the purchase of land in the names of the first and second petitioners, the contractor (A1) was entrusted with the job of getting for the building plan from the competent authority for constructing a building therein, that the contractor (A1) informed the petitioners that no permission need be obtained for construction of a retaining wall and that the contractor (A1) himself started doing the earth work engaging the labour sub-contractor (A2). It is the contention of the petitioners that, if at all there was any negligence which led to the unfortunate accident, the same could be attributed to the contractor and sub-contractor alone and the petitioners cannot be held liable under the criminal law vicariously"*

9. In this case on hand, it is apparent that the labourers were not under the direct supervision of the petitioner. He already handed over the charge of transporting the labourers to the contractor. The rash and negligent act could be attributed to the driver of the ACE vehicle and the contractor.

10. In view of the foregoing discussions, it is held that possibility of conviction of the petitioner under the aforesaid sections of law appears to be remote and bleak. Indeed, further proceeding will be an abuse of the process of the Court. Thereby, the inherent jurisdiction of this Court under Section 528 of the BNSS can be invoked.

11. Considering the entire aspect of the matter, the proceedings of GR Case

No.491/ 2025, arising out of Khowang PS Case No.04/2025 under Sections 125/281/3(5) of BNS, R/w Section 51 (b) of the Disaster Management Act, read with Section 177 of the MV Act pending in the Court of learned JMFC, Dibrugarh so far as the present petitioner is concerned, is hereby set aside and quashed.

12. In terms of the above observations, the criminal petition stands disposed of.

**JUDGE**

**Comparing Assistant**