

GAHC010199522025



2026:GAU-AS:5680

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

Case No. : Crl.Pet./1098/2025

ABUL HASAN MUHSIN
S/o- ABDUL MUTALIB,
R/o- VILLAGE- RAJABARI UNDER DHING POLICE STATION IN THE
DISTRICT OF NAGAON, ASSAM.

VERSUS

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

2:MURSHIDA KHATUN
W/O- ABUL HASAN MUHSIN.
R/O- VILLAGE- RAJABARI UNDER DHING POLICE STATION IN THE
DISTRICT OF NAGAON
ASSAM

Advocate for the Petitioner : MR. B M CHOUDHURY, U SARMA,MR. U CHOUDHURY

Advocate for the Respondent : PP, ASSAM, MRS. M S SUNDI (R-2)

BEFORE
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

Date : 24.04.2026

Heard Mr. U Choudhury, the learned counsel on behalf of the petitioner, as

well as Addl PP on behalf of the respondent State. Also heard Ms M S Sundi, learned counsel appearing on behalf of the respondent no.2

2. The present petition is filed with a prayer for setting aside the impugned Order dated 14.05.2024, taking cognizance of offences allegedly committed by the petitioner under Section 376 IPC read with Section 4 of the POCSO Act, and with further prayers for quashing the criminal proceedings of Special Case No. 74 /2024 pending against the petitioner in the court of the learned Special Judge, POCSO, Nagaon.

3. An FIR has been lodged against the petitioner on 4.10.2023, by respondent no. 2, accusing him of committing rape on her. Consequently, a case had been registered, being Dhing PS Case No. 184 / 2023, under Section 376 IPC read with Section 4 of the POCSO Act. After completion of the investigation, a chargesheet dated 14.05.2024 was filed before the court of learned Special Judge POCSO, Nagaon and now the case is pending before the trial court in the stage of appearance.

4. However, the petitioner, in this petition, has submitted that after the girl, i.e. Opposite Party No. 2, attained majority, the petitioner has solemnised a social marriage with her on 08.01.2024, and misunderstandings between the parties have been amicably solved. In fact, a child has also now been born to the parties. The petitioner has filed the present application before this Court for quashing the criminal proceedings of the Special POCSO case no.74/ 2024

pending against the petitioner in the Court of the Special Judge, POCSO, Nagaon.

5. An affidavit had been filed on behalf of the Opposite Party no 2, making it evident that the parties are no longer interested in pursuing the case, which is presently pending against her husband, i.e. the petitioner. Learned counsel for the petitioner submits that it would be an abuse of the process of the Court to continue with the criminal prosecution after a settlement has been reached between the parties in a matrimonial dispute. The learned counsel for the opposite party no. 2 has submitted that the alleged victim has no objection to the closure of the criminal proceedings against her husband, as they are tied in a matrimonial relationship.

6. The Learned Addl. P.P has submitted that in the absence of the co-operation of the victim herself during the Trial, the probability of securing a conviction would reduce dramatically, leading to the Trial to be a non-fruitful venture.

7. The learned counsel for the petitioner has drawn our attention to the Judgment of the Hon'ble Supreme Court in the **State of Haryana Vs. Bhajan Lal** reported in **AIR 1992 SC 604**, wherein at Paragraph-102, the Judgment has laid down as follows:-

“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 a private and personal grudge.”

8. Having heard the learned counsel for the parties and the learned A.P.P., this Court is of the opinion that the ratio laid down in Bhajan Lal's case is applicable to the present case. The informant/respondent No. 2 has stated that all disputes are settled. There is little or no possibility of conviction of the accused petitioner in the pending criminal proceeding. Allowing the criminal proceeding to continue would only result in the prolongation of the judicial process.

9. In the opinion of this Court, this is a fit case for exercising powers under Section 582 read with Section 438 of the BNSS, 2023. The criminal petition is accordingly allowed. The proceedings of Special Case No. 74 /2024 pending against the petitioner in the court of the learned Special Judge, POCSO, Nagaon, are hereby set aside and quashed.

JUDGE

Comparing Assistant