

GAHC010220762025



2026:GAU-AS:7772

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

Case No. : Crl.Rev.P./408/2025

NASER ALI AND ORS
S/O- LATE JHARU SHEIKH
R/O- VILL.- ROWA PART-II, THER THERI PARA, P.S.- DHUBRI, DIST.-
DHUBRI, ASSAM.

2: SAMSUL HOQUE
S/O- NASER ALI.
R/O- VILL.- ROWA PART-II
THER THERI PARA
P.S.- DHUBRI
DIST.- DHUBRI
ASSAM.

3: SAMIDUL HOQUE
S/O- NASER ALI.
R/O- VILL.- ROWA PART-II
THER THERI PARA
P.S.- DHUBRI
DIST.- DHUBRI
ASSAM.

4: MAFIJJUL HOQUE @ MONI
S/O- NASER ALI.
R/O- VILL.- ROWA PART-II
THER THERI PARA
P.S.- DHUBRI
DIST.- DHUBRI
ASSAM

VERSUS

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

2:MOHIBUL HOQUE
S/O- BAIDUL ALI @ HUSSAIN.
VILL- ROWA PART-II P.S. AND DIST- DHUBRI ASSAM PIN- 783331

3:SIDDIQUE ALI
S/O- MESER ALI .
VILL- ROWA PART-II P.S. AND DIST- DHUBRI
ASSAM
PIN- 78333

Advocate for the Petitioner : MS. R CHOUDHURY, MR. Z. HUSSAIN, MD. MEMON AHMED

Advocate for the Respondent : PP, ASSAM, MR. T ISLAM(R-2,3), MR. K ALOM(R-2,3), MD. A HUSSAIN (R-2,3)

B E F O R E

Hon'ble MR. JUSTICE KAUSHIK GOSWAMI

Advocate for the petitioner :Ms. R. Choudhury.
S.E. Muktaza

Advocates for the respondents :Mr. A. Hussain,
Ms. A. Begum, APP.

Date on which judgment is reserved : NA

Date of pronouncement of judgment : 04.06.2026

Whether the pronouncement is of the operative part of the
judgment? : NA

Whether the full judgment has been pronounced? : Yes

JUDGMENT & ORDER (ORAL)

Heard Ms. R. Choudhury, learned Senior Counsel assisted by Ms. S.E. Muktaza, learned counsel for the petitioner. Also heard Mr. A. Hussain, learned counsel for the respondent nos. 2 and 3 and Ms. A. Begum, learned APP for the State respondents.

2. By way of the present criminal revision petition filed under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioners have assailed the order dated 01.09.2025 passed by the learned Additional Chief Judicial Magistrate, Dhubri in PRC No. 1634/2019 arising out of Gauripur P.S. Case No. 53/2018, whereby the learned Trial Court, in exercise of powers under Section 319 of the Code of Criminal Procedure, 1973, impleaded the petitioners as accused persons and directed issuance of summons against them.

3. The facts, in brief, are that an FIR dated 15.01.2018 was lodged alleging, inter alia, that on 11.01.2018 at about 7:00 p.m., while the informant's younger brother and paternal uncles were proceeding towards Balajan on a motorcycle bearing Registration No. AS-17-E-9011, they were intercepted near Dumardaha Bridge on National Highway No. 31 by the accused persons travelling in a Bolero Pick-up Van bearing Registration No. AS-17-B-9623. It was alleged that the vehicle intentionally struck the motorcycle, causing the riders to fall on the road, whereafter the accused persons got down from the vehicle and assaulted them with iron rods, resulting in the death of Akkel Ali and grievous injuries to the others. Subsequently, one of the injured persons also succumbed to his injuries. Upon registration of Gauripur P.S. Case No. 53/2018 under Sections 120-B/302/325/34 IPC, investigation was undertaken. Upon completion of investigation, the petitioners were not sent up for trial. However, during the course of proceedings before the Trial Court, evidence emerged through the testimony of PW-1 and CW-1 implicating the present petitioners in the occurrence. Consequently, by the impugned order dated 01.09.2025, the learned Trial Court invoked its jurisdiction under Section 319 Cr.P.C. and summoned the petitioners to face trial.

4. Ms. R. Choudhury, learned counsel for the petitioners, submits that the

impugned order is wholly unsustainable in law. According to her, the Investigating Officer, after a full-fledged investigation, did not find sufficient material to charge-sheet the petitioners. In such circumstances, the Trial Court ought not to have exercised its powers under Section 319 Cr.P.C. in the absence of compelling evidence. She further submits that Siddique Ali, one of the witnesses, had filed a petition before the Trial Court asserting that the person arrayed as accused was not the individual against whom allegations were originally made. Though the said petition was rejected by order dated 06.05.2025, the same, according to the learned counsel, casts serious doubt on the prosecution case.

5. It is further contended that the legal representatives of one of the deceased persons had instituted proceedings before the Motor Accident Claims Tribunal and were awarded compensation under the Motor Vehicles Act. According to the petitioners, the said circumstance demonstrates that the occurrence was essentially a motor vehicle accident and not a case involving any criminal conspiracy or murderous assault. In support of her submissions, reliance has been placed upon the decision of the Apex Court in the case of ***Rajjan Lal @ Rajanu v. State of Uttar Pradesh & Ors.***, reported in ***SLP (Crl.) No. 6108/2025***.

6. *Per contra*, learned counsel appearing for respondent Nos. 2 and 3 submits that the FIR itself contains specific allegations against the petitioners. It is pointed out that the petitioners were named in the FIR and were attributed specific overt acts, including assault upon the victims after deliberately striking the motorcycle with the Bolero vehicle.

7. It is further submitted that PW-1 and CW-1, during their examination

before the Trial Court, specifically implicated the petitioners in the commission of the offence. Therefore, sufficient evidence has emerged during trial warranting exercise of powers under Section 319 Cr.P.C. Reliance has been placed upon the decisions of the Apex Court in the case of ***Manjeet Singh v. State of Haryana***, reported in ***(2021) 18 SCC 321*** and ***Hardei v. State of Uttar Pradesh***, reported in ***(2016) 12 SCC 394***.

8. Ms. A. Begum, learned Additional Public Prosecutor, has supported the impugned order and submits that the materials available before the Trial Court clearly disclose the involvement of the petitioners. Therefore, no interference is called for in exercise of revisional jurisdiction.

9. I have considered the submissions advanced by the learned counsel for the parties. I have also carefully perused the records and the authorities cited at the Bar.

10. A perusal of the FIR reveals that the petitioners were specifically named therein. The allegations are not vague or omnibus in nature. The FIR attributes a definite role to the petitioners by alleging that they intentionally rammed the motorcycle with their vehicle and thereafter assaulted the victims with rods, resulting in the death of two persons and grievous injuries to another.

11. It is true that the petitioners were not sent up for trial by the Investigating Officer. However, the mere fact that a person has not been charge-sheeted does not denude the criminal court of its power under Section 319 Cr.P.C. if evidence subsequently emerges during trial indicating his involvement in the offence. The order dated 01.09.2025 demonstrates that the learned Trial Court took note of the testimony of PW-1 and CW-1, both of whom specifically implicated the petitioners in the occurrence. The learned Trial Court, upon consideration of the

evidence then available before it, formed an opinion that the petitioners appeared to have committed the offence and could be tried together with the existing accused.

12. Section 319 Cr.P.C. empowers a court to proceed against any person who, though not arrayed as an accused, appears from the evidence recorded during inquiry or trial to have committed an offence for which he could be tried together with the accused already facing trial. The provision is intended to ensure that the real perpetrators of a crime do not escape the process of law merely because they were omitted from the charge-sheet.

13. In ***Hardei (supra)***, the Apex Court categorically held that the fact that the police did not send up a suspect for trial does not affect the power of the Trial Court under Section 319 Cr.P.C. to summon such person on the basis of evidence recorded during trial.

14. Likewise, in ***Manjeet Singh (supra)***, the Apex Court reiterated that the power under Section 319 Cr.P.C. can be exercised even on the basis of examination-in-chief of a witness and that the Court is not required to await completion of cross-examination before invoking such jurisdiction. The Apex Court further held that even persons named in the FIR but kept out of the charge-sheet may be summoned if evidence surfaces during trial demonstrating their involvement in the offence.

15. The reliance placed by the learned counsel for the petitioners on the decision of the Apex Court in ***Rajjan Lal @ Rajanu (supra)*** is misplaced and does not advance the case of the petitioners. The Apex Court observed therein that although the complainant could invoke the jurisdiction of the Court under Section 319 Cr.P.C., the exercise of such power would depend upon the

satisfaction of the Court on the basis of the evidence led during trial. The Apex Court further noted that, in the facts of that case, the Trial Court, having recorded the evidence, found no occasion to exercise its suo motu power under Section 319 Cr.P.C. and, therefore, such power could not be invoked merely on the basis of accusations made by the complainant. The facts of the present case stand on an entirely different footing. Here, the learned Trial Court has exercised its jurisdiction under Section 319 Cr.P.C. not on the basis of mere allegations contained in the FIR or at the instance of the complainant alone, but upon considering the evidence that surfaced during trial, particularly the testimony of PW-1 and CW-1, who have specifically implicated the petitioners in the occurrence. Thus, the very distinction noticed by the Apex Court in ***Rajjan Lal @ Rajanu (supra)*** supports the course adopted by the learned Trial Court in the present case rather than the contention advanced on behalf of the petitioners.

16. The submissions advanced on behalf of the petitioners regarding the rejection of the witness petition by the Trial Court and the institution of proceedings before the Motor Accident Claims Tribunal do not persuade this Court to take a different view. The standards governing a claim for compensation under the Motor Vehicles Act are entirely distinct from the considerations that arise in a criminal prosecution. Merely because compensation has been awarded in proceedings before the MACT does not ipso facto negate the existence of criminal liability if the materials on record otherwise disclose commission of cognizable offences. Similarly, the rejection of a petition filed by a witness does not eclipse the evidentiary value of testimony recorded before the Court during trial.

17. In the present case, the petitioners were specifically named in the FIR.

More importantly, PW-1 and CW-1 have, in their evidence before the Court, attributed specific roles to the petitioners in the alleged occurrence. At the stage of exercising jurisdiction under Section 319 Cr.P.C., the Court is not required to undertake a meticulous appreciation of evidence as would be done at the stage of final adjudication. The Court is only required to ascertain whether the evidence brought on record discloses a prima facie case warranting the summoning of the proposed accused.

18. Viewed from the aforesaid perspective, this Court finds no perversity, illegality, or jurisdictional error in the order dated 01.09.2025 passed by the learned Trial Court.

19. Consequently, the revision petition is devoid of merit and stands dismissed.

20. No order as to costs.

JUDGE

Comparing Assistant