

GAHC010226632025



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

Case No. : Crl.Pet./1288/2025

AZIBAR ALI SHEIKH AND 2 ORS.
S/O KADAM ALI SHEIKH
VILL- DALSINGAL PART II PS GAURIPUR DISTRICT- DHUBRI ASSAM

2: PRIYAM GHOSH
S/O PANKAJ GHOSH
VILL- GAURIPUR
WARD NO. 3
P.S. GAURIPUR
DIST. DHUBRI
ASSAM

3: AJOY KR DAS
S/O LT. TULARAM DAS
VILL- MODAN MOHAN PARK LANE NEAR RANGIRKHARI PETROL PUMP
HAILAKANDI ROAD
P.S. SILCHAR
DIST. CACHAR
ASSA

VERSUS

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

2:SWAPNIL MUKUND PATIL
OFFICER-IN-CHARGE
RUPSI AIRPORT
S/O MUKUND GOVINDROO PATIL

R/O RUPSHI AIRPORT

P.S. KAZIGAON
DIST. KOKRAJHAR

ASSAM

Advocate for the Petitioner : MR A ISLAM, E HUSSAIN

Advocate for the Respondent : PP, ASSAM, MR. A SHARMA (R-2)

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

18.03.2026

Heard Mr. A Islam, learned counsel appearing for the petitioner. Also heard Mr. Bhaskar Sharma, learned Additional Public Prosecutor, Assam as well as Mr. A. Sarma, learned counsel representing the respondent no. 2.

This is an application under Section 528 of the BNSS, 2023 praying for quashing the FIR dated 16.06.2025 registered as Kazigaon P.S. Case No. 44/2024 and the PR Case No. 315/2025 pending in the Court of the learned Chief Judicial Magistrate, Kokrajhar.

48 nos. of Amaron Quanta batteries were in custody of the informant at Rupsi Airport, Kokrajhar. The batteries were stolen in the month of November, 2024. The informant informed Police and on 16.06.2025 28 nos. of batteries were recovered from a shop at Gauripur.

During investigation, it was found that Sri Ajay Kumar Das, Priyam Ghosh and the battery shop owner Alibar Ali were involved in the said act.

The 48 nos. of batteries were supplied by Rahat Kabir Siddiqui who is from Baranasi. He had an agreement with the airport that after a particular period of time he will buy back those batteries. Rahat Kabir Siddiqui has filed an affidavit stating that he has nothing to do with the theft of 48 nos. of batteries. He also stated that he has objection if the PR Case No. 315/2025 is quashed.

In the meantime, the informant of this case and the petitioner Ajibar Ali Sheikh have also entered into an compromise agreement. They have agreed that the informant shall have no objection if the PR Case No. 315/2025 is quashed.

I have considered the submissions made by the learned counsel of both sides.

The Apex Court in the case of [Nikhil Merchant v. Central Bureau of Investigation and An.](#), reported in (2008) 9 SCC 677, held that when a compromise has been arrived at

between the parties, by which the parties have withdrawn all claims and allegations against each other, technicality should not be allowed to stand in the way in quashing the criminal proceedings since the same would be a futile exercise.

The Apex Court in the case of *Madan Mohan Abbot v. State of Punjab* reported in (2008)4 SCC 582 has held:

" We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law."

In the case of [Parbatbhai Aahir Alias Parbatbhai Bhimsinhbhai Karmur and Ors. v. State of Gujarat and Anr.](#) [(2017)9 SCC 641] the Supreme Court has held ---

- (i) [Section 482](#) preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;
- (ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of [Section 320](#) of the Code of Criminal Procedure, 1973. The power to quash under [Section 482](#) is attracted even if the offence is non-compoundable.
- (iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under [Section 482](#), the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;
- (iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the

process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under [Section 482](#) and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

Coming back to the case in hand, this Court is of the opinion that since the parties have already compromised the dispute, in such a circumstance, allowing the criminal proceedings to continue before the trial court would be nothing but an abuse of the process of the Court. there is no possibility of conviction of any person in this case. This is a fit case for exercising the power under Section 528 of the BNSS, 2023

Accordingly, the FIR dated 16.06.2025 registered as Kazigaon P.S. Case No. 44/2024 and the PR Case No. 315/2025 pending in the Court of the learned Chief Judicial Magistrate, Kokrajhar is quashed and set aside.

The criminal petition is disposed of.

JUDGE

Comparing Assistant