

GAHC010246862025



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

Case No. : Crl.Pet./1361/2025

NIJAM UDDIN CHOUDHURY AND 3 ORS.
S/O- LATE ISUB ALI CHOUDHURY, VILL. P.O.- PANCHGRAM, P.S.-
PANCHGRAM, DIST. HAILAKANDI, ASSAM

2: SAMIM AHMED CHOUDHURY
S/O- ATAUR RAHMAN CHOUDHURY
VILL. P.O.- KALINAGAR PT.V
P.S.- PANCHGRAM
DIST. HAILAKANDI
ASSAM

3: ABDUR RAFIE MAZMDER
S/O- ISMAIL ALI MAZUMDER

R/O- SILCHAR ROAD
NEAR HPC PAPER MILL
PANCHGRAM
P.S.- PANCHGRAM
DIST. HAILAKANDI
ASSAM.

4: IKBAL HUSSAIN TALUKDAR
S/O- ABDUL JALIL TALUKDAR
R/O- PANCHGRAM NEW MARKET
P.S.- PANCHGRAM
DIST. HAILAKANDI
ASSA

VERSUS

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

2:ATAUR RAHMAN LASKAR

S/O- LATE MUDORISH ALI LASKAR
VILL. MATIRGRAM
P.O. P.S.- ALGAPUR
DIST. HAILAKANDI
ASSAM. PIN- 78815

Advocate for the Petitioner : MR. T J MAHANTA, MS. N.A. LASKAR,MR. A BORUA,MS. S. DEY,MR. N H BARBHUIYA

Advocate for the Respondent : PP, ASSAM, MISS R A CHOUDHURY (R-2),MR E AHMED(R-2)

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

04.02.2026

Heard Mr. T.J. Mahanta, learned Senior Counsel assisted by Mr. N.H. Barbhuiya, learned counsel for the petitioners. Also heard Mr. E. Ahmed, learned coun sel for the respondent No. 2 and Mr. K. Baishya, learned Addl. Public Prosecutor for the State.

2. By this application under Section 528 of the BNSS, 2023, the petitioners have prayed for setting aside and quashing of the impugned FIR being Panchgram P.S Case No. 59/2023 as well as the Charge-sheet submitted in connection thereof on 31.08.2023 as well as the entire proceedings of the Sessions Case No. 44/2025 pending in the Court of the learned Additional Sessions Judge, Hailakandi. The petitioners have also challenged the Order dated 14.10.2025 passed by the learned Additional Sessions Judge, Hailakandi framing charges under Sections 143/148/448/323/353/307 and 149 of the IPC.

3. Mr. T.J. Mahanta, learned Senior Counsel has challenged the instant FIR as well as the Charge-sheet and the subsequent proceedings mainly on one

ground, i.e., the Investigating Officer, who investigated the case and submitted the Charge-sheet was the victim in the instant case, inasmuch as, it is stated in the FIR, which is the second FIR lodged after few hours later than the first FIR that the accused persons had entered the Police Outpost, where the Investigating Officer was present and who had ordered the accused persons not to enter the Outpost, but the accused persons did not pay any heed to the request of the Investigating Officer, who was the I/C of the Police Station and entered and assaulted the informant of the first FIR, i.e, Sh. Ataur Rahman Laskar. He also placed the medical report of Sh. Ataur Rahman Laskar, who was assaulted by the petitioners inside the Police Outpost and the Medical Report showed that the nature of the injury was simple and fresh.

4. Mr. T.J. Mahanta, learned Senior Counsel also submitted that there was a first FIR, which was lodged by Sh. Ataur Rahman Laskar against the petitioners, wherein it was stated that the informant, while returning from Panchgram in his private vehicle and reached a particular point, the petitioners obstructed the way and attacked his vehicle. It was further stated that the victim, i.e., the informant somehow managed to escape from the accused persons and took shelter at the Police Outpost. However, the accused persons, i.e., the petitioners, chased him forcefully, entered into the Outpost with the intention to kill him and attacked him. It was also stated that the on-duty Police Personnel, which would include the Investigating Officer, somehow rescued him from the clutches of the petitioners and that the petitioners took away gold chain and cash from the informant.

5. Mr. T.J. Mahanta, learned Senior Counsel further points out that the case numbers in both the FIR are same, i.e., Panchgram P.S Case No. 59/2023. Thereafter, he placed the Charge-sheet, which apparently seems to be in

connection with the second FIR, wherein it was stated that the petitioners had forcefully entered the Outpost and without giving heed to the orders of the I/C of the Outpost, entered into and assaulted the informant of the first FIR. He thereafter states that the I/C, who was there in the Police Outpost was assigned the duty to investigate the case and the said case was investigated by the said Investigating Officer and the Charge-sheet was submitted by him. He as such submits that the said I/C of Katakhal Police Outpost cannot be the Investigating Officer of the instant case, since his orders were not followed and he was the direct eye witness in the said case. He submits that in such a case, there cannot be a fair investigation and the submission of Charge-sheet was bad in law. He also submits that Section 353 is included both in the Charge-sheet as well as in the charge framing order, which directly shows that the petitioners have allegedly obstructed the Police Officer from doing their duties.

6. Mr. T.J. Mahanta, learned Senior Counsel has placed two Judgments to substantiate his arguments, which is as follows:-

(1) ***Bhagwan Singh Vs. State of Rajasthan***, reported in **1976 1 SCC 50.**

(2) ***Babubhai Vs. State of Gujarat***, reported in **(2010) 12 SCC 254.**

Both the Judgments are placed in order to bring home the fact that there has to be a fair investigation.

7. Mr. E. Ahmed, learned counsel for the respondent No. 2 submits that there is no allegation that the petitioners have assaulted or in any manner did any act against the Investigating Officer. The only averment stated in the FIR as well as in the Charge-sheet is that the I/C of the Police Outpost had ordered the petitioners not to enter the Outpost, but the petitioners without giving any

heed, entered into and assaulted the informant of the first FIR. As such, there cannot be any prejudice caused to the petitioners concerned, if the said I/C is made the Investigating Officer, which is done in the instant case.

8. Mr. K. Baishya, learned Addl. Public Prosecutor for the State after perusing the TCR has stated that the Charge-sheet has been submitted in connection with the second FIR, as the contents of the Charge-sheet makes it clear thereto. However, he is instructed to find out as to what happen to the first FIR, which was lodged by Sh. Ataur Rahman Laskar, who is the informant and who was assaulted by the petitioners. He submits that although the case numbers are same, but the contents of the Charge-sheet showed that it is in connection with the second FIR.

9. As such, it is directed that Mr. K. Baishya, learned Addl. Public Prosecutor for the State may bring the instruction from the concerned Police Station as to the fate of the first FIR that was lodged by Sh. Ataur Rahman Laskar on 28.06.2023.

10. List the matter again on **06.02.2026**.

11. A copy of the order may be furnished to Mr. K. Baishya, learned Addl. Public Prosecutor for his onward transmission to the concerned Police Station.

JUDGE

Comparing Assistant