

GAHC010246952024



2026:GAU-AS:3116

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

Case No. : Crl.Pet./1410/2024

KHUDEJA KHATUN AND ANR
W/O NACHER ALI
R/O VILL- KACHARIGOAN, P.O. KALIADINGA
P.S. JURIA,
DIST. NAGAON, ASSAM
PIN-782128

2: JARINA KHATUN
W/O MAINUL HAQUE
R/O VILL- KACHARIGOAN
P.O. KALIADINGA
P.S. JURIA

DIST. NAGAON
ASSAM
PIN-78212

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP.BY THE PP, ASSAM

2:MATIUR RAHMAN
S/O LATE SAMSUDDIN AHMED
R/O VILL- KADOMONI TOWN
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM

PIN-782125
(OFFICE ADDRESS KALIADINGA HIGH MADRASSA

P.S. JURIA
DIST. NAGAON

ASSAM
PIN-782128

3:KHALIL ULLAH ANSARY
S/O LATE ABDUL KADIR
R/O GEHUA CHALCHALI
P.S. RUPAHIHAT
DIST. NAGAON

ASSAM

PIN0-782124 (OFFICE ADDRESS- KALIADINGA HIGH MADRASSA
P.S. JURIA
DIST. NAGAON
ASSAM
PIN-782128

Advocate for the Petitioner : MR A N IQBAL, MR. S RAHMAN,R HAQUE

Advocate for the Respondent : PP, ASSAM, MR. RASHIDUL ISLAM (R-2,3),MS B B AHMED(R-2,3),MR Z HUSSAIN(R-2,3)

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA

ORDER

27-02-2026

Heard Mr. A. N. Iqbal, learned counsel for the petitioners and Mr. Z. Hussain, learned counsel for the respondent Nos. 2 and 3. Also heard Mr. P. S. Lahkar, learned Additional Public Prosecutor, Assam for the respondent No.1.

2. This is an application filed under Section 528 BNSS for quashing the order dated 30.09.2023, passed by the learned Additional CJM, Nagaon accepting the Final Report filed in connection with Juria P.S. Case No. 426/2022.

3. It is submitted by Mr. Iqbal, learned counsel that one FIR was lodged before the Juria Police Station by four numbers of complainant including the present two petitioners before the Officer-in-Charge of Juria Police Station with some allegation

of misappropriation of money by the co-accused persons, namely, Matiur Rahman and Khalilur Rahman in the name of form fill up of examination who were discharging their duties in the Kaliadinga Madrassa High School as Headmaster and Assistant Teacher respectively.

4. But after the investigation of the case, the I.O. filed the Final Report on the basis of a compromise deed which was executed between one of the informant, namely, Sahidulla and Mainul Hoque wherein it is stated that due to some misunderstanding, the FIR was lodged. But surprisingly in the said compromise deed, the other two complainants/informants were not informed about the compromise deed and more surprisingly, the compromise is signed by only Sahidulla though it is sworn by two persons/complainants namely, Sahidulla and one Mainul Hoque.

5. Mr. Iqbal, learned counsel further submitted that this is a case of very serious in nature wherein the Final Report has been submitted by the I.O. and the learned Trial Court without issuing any notice to the present petitioners had disposed of the matter considering the submissions and the petition filed by one Sahidulla, the Final Report was accepted vide its order dated 30.09.2023, wherein it seen that one petition was also filed by the informant being numbered as Petition No. 4955 stating that he has no objection in accepting the Final Report.

6. He further submitted that inspite of the four complainants in the FIR, notice was issued only to one Sahidulla and these two petitioners never received any notice from the learned Trial Court to agitate the matter or to file any protest petition against acceptance of the Final Report.

7. More so, he submitted that though the names of two complainants were shown in the list of witnesses, but two of them are not even named as witnesses in the Final Report and their statements are also not recorded by police at the time of

investigation or before filing the Final Report.

8. Mr. Iqbal accordingly submitted that there are technical errors while accepting the Final Report filed by the I.O. and hence he submitted that the matter may be remanded back to the learned Trial Court to issue notice to the complainants and to pass necessary order after examining/recording of all the witnesses as per law.

9. Mr. Hussain, learned counsel for the respondent Nos. 2 and 3 who are the accused persons in the case submitted that the learned Trial Court had rightly passed the order considering all aspects of the case. He further submitted that from the FIR it itself it is seen that the complaint was lodged by one Sahidulla and the other three persons signed the complaint only as a witness only to strengthen the case of the complainant Sahidulla, which was lodged before the Juria Police Station. He further submitted that from the form of the FIR it is seen that the name of the complainant is written as Sahidulla and other persons were stood as witness.

10. He accordingly submitted that the learned Trial Court considering the name of the informant who is stated to be one Sahidulla, the notice was issued, which was duly served and the informant Sahidulla also appeared before the I.O. with a petition stating that he has no objection in accepting the Final Report and after complying all the provisions, the Final Report has been accepted by the learned Trial Court. Thus, there is no error or mistake committed by the learned Trial Court in setting aside the order of acceptance passed by the said Court.

11. He further submitted that there may be a compromise petition before the I.O. at the time of investigation, wherein admittedly only one person namely Sahidulla had put his thumb impression though the compromise deed is stated to be sworn by two persons including one Mainul. But he submitted that the

compromise petition has no connection with the order passed by the learned Trial Court and the order was passed basically relying on the statement of the complainant and the no objection petition filed by him.

12. Mr. Hussain further submitted that these two petitioners could have approached the learned Trial Court with a protest petition when it was within their knowledge about the acceptance of the Final Report, but without approaching the learned Trial Court, the present petition has been filed under Section 528 BNSS which is not maintainable and liable to be dismissed.

13. Mr. Lahkar, learned APP submitted in this regard that it is a fact that name of the informant/complaint is written as one Sahidulla, but from the FIR itself it is seen that four persons put their signatures as complainant and hence before passing any order of acceptance of Final Report, notice could have been issued to the other complainants to raise their objection, if any before accepting the Final Report. Accordingly, he submitted that that the matter may be remanded back to the learned Trial Court.

14. I have heard the submissions made by the learned counsel for the parties and also perused the case record and the order passed by the learned Trial Court dated 30.09.2023 accepting the Final Report filed in connection with Juria P.S. Case No. 426/2022.

15. The main contention of the petitioners is that they were also the complainants of this case and accordingly they put their signatures/thumb impressions in the FIR itself. But inspite of their names in the FIR/complaint, they were not furnished with any notice at the time of accepting the Final Report by the learned Trial Court and on the basis of the petition filed by complainant Sahidulla, the Final Report is accepted by the learned Trial Court. More so, another issued raised that the compromise deed which was sworn by Sahidulla along with one

Mainul Hoque, one of the complainant that was furnished before the I.O. during the enquiry, but surprisingly the signature of one of the deponent is also not available in the FIR.

16. But from the entire record it is seen that it is only Sahidulla who lodged the complaint and in the FIR itself his name is reflected as a complainant and though the name of three others are reflected in the FIR. But only on the basis of three other names mentioned in the FIR, all the four persons cannot be considered as complainants. There are some instances wherein the complaint or the FIR is supported by several persons who are co-villagers or may be aggrieved by an act, but for that reasons only the name of the informants/complainants cannot be reflected in the FIR. More so, in the present case, the name of Sahidulla is only reflected in the FIR form as well as in the FIR. Hence, the learned Trial Court had rightly issued notice against said Sahidulla who is stated to be the complainant/informant, both in the FIR as well as in the FIR form. However, the other signatories were shown as witnesses in the case at the time of registration as well as during enquiry. At the same time, it is seen that grievances of all the complainants were same where the allegation of misappropriation of money was brought against two teachers, i.e., the accused petitioners.

17. Further it is also seen that there is no specific mention about any victim who directly brought the allegation of misappropriation of money by the accused petitioner, to serve with any notice to the victim before accepting the Final Report.

18. Thus, it is seen that there is no illegality or infirmity committed by the learned Trial Court while issuing the notice to the complainant/informant namely, Sahidulla. It is also not the case that without examining the complainant/informant, the Final Report was accepted by the learned Trial Court below. After receiving the notice against the Final Report, the complainant/informant appeared before the

learned Trial Court, filed a petition stating that he has no objection if the Final Report is accepted by the learned Trial Court.

19. Further from the Final Report also it is seen that police after enquiry find no reason for filing charge sheet against the accused petitioner and accordingly, the Final Report was submitted for consideration before the learned CJM. Thus, it is seen that there is no illegality or irregularity committed by the learned Trial Court while accepting the Final Report on the basis of no objection submitted by the informant/complainant of this case, namely Sahidulla.

20. Another issue raised by the learned counsel for the petitioners that the compromise petition which was stated to be sworn by the complainant/informant Sahidulla along with one Mainul Hoque, but the signature or the thumb impression of said Mainul Hoque is not available in the compromise petition which was produced before the I.O. during investigation. But it is rightly submitted by the learned counsel for the respondent that order of acceptance of F.R. dated 30.09.2023 is not passed on the basis of the said compromise deed/petition and acceptance of F.R. has no connection with filing of the affidavit/compromise deed by the informant along with another signatory, namely one Mainul Hoque.

21. More so, this petition is filed under Section 528 BNSS for setting aside and quashing of the order of acceptance of F.R. dated 30.09.2023 passed by the learned Trial Court. But from above discussion, it is seen that no illegality or irregularity has been committed by the learned Trial Court, nor there is prima facie case of abuse of process of law by passing the order of acceptance by the learned Trial Court and the petitioners also failed to make out a case that the order dated 30.09.2023 is required to be set aside and quashed to secure the ends of justice to invoke the power under Section 528 BNSS for setting aside and quashing the said order.

22. In view of above, this Court is of the opinion that there is no reason to interfere with the order passed by the learned Trial Court while accepting the Final Report in connection with Juria P.S. Case No. 426/2022, rather after observing all necessary formalities, the order of acceptance has been passed by the learned Trial Court.

23. Accordingly, this petition being devoid of any merit stands dismissed.

JUDGE

Comparing Assistant