

GAHC010261122025



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

Case No. : Crl.Pet./1529/2025

M/S TIRUPATI SPICES AND ANR
HAVING ITS PRINCIPAL PLACE OF BUSINESS AT GOLDEN TRAFFIC
POLICE, BEHIND GULABBARI JUPITAR SCHOOL, KOTA, RAJASTHAN, PIN-
324006, REPRESENTED BY ITS PROPRIETOR SRI LOKESH AGARWAL.

2: SHRI LOKESH AGARWAL
PROPRIETOR OF TIRUPATI SPICES
GOLDEN TRAFFIC POLICE
BEHIND GULABBARI JUPITAR SCHOOL
KOTA
RAJASTHAN
PIN- 32400

VERSUS

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

2:M/S PATNI DISTRIBUTORS

HOUSE NO. 111
SIDDHA POINT
S.J. ROAD
ATHGAON
GUWAI781001
DIST- KAMRUP (M)
ASSAM
REPRESENTED BY ITS PROPRIETOR SRI ANKIT PATNI. MOBILE NO -
9954537162

Advocate for the Petitioner : MR. D K KOTHARI, MR. N KOTHARI, MR P PRAWAR, MR Y KOTHARI

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 05.12.2025

1. Heard learned Counsel Mr. P. Prawar for the petitioners M/S Tirupati Spices and Shri Lokesh Agarwal who have filed this application under Section 528 of the BNSS 2023 with prayer for quashing the Complaint Case No.667/2023 pending in the court of the learned JMFC Kamrup(M) and also for quashing of the impugned order dated 13.09.2024.
2. Heard Mr. M.P. Goswami, learned Addl.Public Prosecutor for the State of Assam who has accepted notice on behalf of the respondent No.1 and thus no further notice is required to be issued.
3. The impugned order dated 13.09.2024 reflects that an enquiry under Section 202 of the CrPC was held and witnesses were examined. A *prima facie* case was found after considering the complaint and the statements of the witnesses and the accused persons were summoned.
4. It is submitted on behalf of the petitioners that there are several litigations pending between the parties. A CR Case No.4280/ 2023 was brought up under Section 138 of the NI Act by the respondent No.2 and after receipt of notice, the petitioner No.2 appeared before the learned SDJM , Kamrup(M). The cheque amount was paid with additional cost by way of demand draft and the respondent No.2 filed a petition for withdrawal of the case, which was disposed off on 28.08.2024.
5. The allegation against the petitioners is that the respondent No.2 and the

petitioners entered into a business relationship on 19.11.2021, and since then they have been dealing in spices. An agreement was also entered and as per the agreement under Clause-3(iii), respondent No.2 would provide the petitioners a security cheque in favour of M/S Tirupati Spices, Kota, Rajasthan for Rs. 10 lacs and thereafter a cheque was handed over to the petitioners being cheque No. 000642. The respondent No.2 was maintaining an open and running account in the name of the firm of the petitioners and after payment and adjustment, a sum of Rs.4,01,643/- only is due against the petitioners since 31.03.2023. The remaining balance was not cleared by the petitioners after several requests. Finally, the petitioner No.2 handed over a cheque dated 30.04.2023 drawn on HDFC Bank Kota Branch for Rs. 2,50,000/- towards part payment of all the liabilities of the petitioners. But when the cheque was deposited by the respondent No.2, the account was found to be closed. Then the aforementioned NI case being CR Case No.4280/2023 was registered which has however been withdrawn.

6. Thereafter, when the business dealings were closed, the respondent No.2 through a letter dated 06.09.2023 requested the petitioners not to deposit the cheque of Rs.10 lacs as he is not liable to pay further any money to the petitioners. In spite of receiving the letter on 11.09.2023, the petitioner No.2 presented the cheque immediately after receipt of notice from the court of the SDJM (S) in connection with the aforementioned CR Case No.4280/2023. It is submitted that the case registered against the petitioners by the complainant under Sections 403/406/420 of the IPC is thus not maintainable and the proceedings may be stayed.

7. The learned Additional Public Prosecutor has raised serious objection.

8. At this juncture, without going through the records, there appears to be no

sufficient ground to stay the proceedings. Therefore, issue notice to respondent No., returnable after 04 (four) weeks.

9. Call for the scanned copies of the trial court records.

10. The prayer for interim stay may be considered on the returnable date.

JUDGE

Comparing Assistant