

GAHC010274332025



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

Case No. : Crl.Pet./1599/2025

DR N. RAJAMARTHANDAN, IPS
(PARTY IN PERSON)
S/O E. NALIAMAYAN, BA
H-NO. 438, WARD NO. 15, GANDHI NAGAR, BARPETA- 781301.

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : PETITIONER IN PERSON,

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 18.12.2025

Heard Dr. N. Rajamarthandan, the petitioner-in-person and Ms. A. Begum, learned Additional Public Prosecutor for the respondent, State of Assam.

2. This criminal petition under Section 528, Bharatiya Nagarik Suraksha Sanhita [BNSS], 2023 is preferred to assail a Judgment and Order dated 24.03.2025 passed by the Court of learned Additional Sessions Judge no. 1, Kamrup [Metro], Guwahati [‘the Revisional Court’] in Criminal Revision no. 53/2024. The criminal revision petition under Section 438, BNSS was preferred seeking setting aside and quashing of an Order dated 21.05.2024 passed by the

Court of Additional Chief Judicial Magistrate, Kamrup [Metro], Guwahati [the Trial Court] in P.R.C. Case no. 234/2023. The Revisional Court by the Judgment and Order dated 24.03.2025 has partly allowed the criminal revision petition by setting aside and quashing the charge framed under Section 218, IPC on the ground that the ingredients of the said offences are not available. In so far as the charge under Section 217, IPC, the Revisional Court has observed that since charge for the offence under Section 217, IPC has been included in the charge form, the same has been upheld. The Revisional Court has further observed that the charge under Section 217, IPC need to be specified clearly by the Trial Court.

3. The matter would require consideration.
4. Issue notice, returnable on 06.02.2026.
5. As Ms. Begum has appeared and accepted notice on behalf of the respondent, issuance of formal notice stands dispensed with. The petitioner shall serve an extra copy of the petition along with annexures, to Ms. Begum within 2 [two] working days from today.
6. Heard the learned counsel for the parties also in the interim prayer.
7. For ready reference, the Order dated 21.05.2024 framing charges are quoted hereinbelow :-

CHARGE WITH TWO HEADS

[No.XXVIII[I], Schedule V, Act V, 1838]

PR Case no. 234/2023

I, XXXXXXXX, Additional CJM, Kamrup [M] do hereby charge you Dr. N. Raja Marthandan, IPC, the accused of this case as follows :

Firstly :

That you on or before 26.03.2017 at Guwahati being a public servant [PIO, SSP, CID, Assam] charged with preparation of progress report in connection with Silapathar P.S.

Case no. 67/2017, frames that writing in a manner which you knew to be incorrect or intend to thereby save the alleged accused persons of the said Silpathar P.S. Case from legal punishment and that you thereby committed an offence punishable U/s 218, IPC and within the cognizance of this Court.

Secondly :

That you on or before the same date and place being a police officer willfully breaches or neglects to follow any legal provision, procedure, rules, regulations applicable to members of the Police Service and thereby committed an offence punishable U/s 98[a] of Assam Police Act and within the cognizance of this court.

And I hereby direct that you be tried by the said Court on the said charges u/s 217, IPC r/w Section 98[a] of Assam Police Act.

Charge u/s 218 IPC r/w Section 98[a] of Assam Police Act is framed against the accused person and the contents of the same is read over and explained to him to which he pleaded not guilty and claimed to be tried.

Dated this 21st day of May, 2024.

8. From the above Order framing charges, it is evidently clear that the learned Trial Court has used the form prescribed for Charge with two heads and the Trial Court had framed the charges under Section 218, IPC and Section 98[a] of the Assam Police Act. There was no specific charge framed under Section 217, IPC. In such view of the matter, the operation of that part of the impugned Judgment and Order dated 24.03.2025 whereby the Revisional Court has directed to specify the charge under Section 217, IPC by the Trial Court is stayed.

JUDGE

Comparing Assistant