

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,

Linked Case : I.A.(Crl.)/33/2026

DR N RAJAMARTHANDAN IPS
SO E NALLAMAYAN
BA
RO HOUSE NO 438
WARD NO 15
GANDHI NAGAR
BARPETA
781301

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP
ASSAM

Advocate for : PETITIONER IN PERSON
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

B E F O R E
HON'BLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

17.03.2026

Heard Mr. Dr. N. Rajamanthandan, the petitioner in person and Mr. K.K. Parashar, learned Addl. Public Prosecutor.

While issuing notice on 18.12.2025, this Court had recorded as follows:

“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 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. Insofar as the charge under Section 217, IPC, is concerned, 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 needs 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."

This Court has heard the learned Addl. Public Prosecutor and the petitioner in person. The observation made in the order dated 18.12.2025 to the extent there was no specific charge framed under Section 217 of the IPC by the Learned Trial Court has been deliberated upon by both the contesting parties. This Court has also gone through the order framing charges dated 21.05.2024.

This Court is of the considered opinion that when there was no discussion with regard to the manner in which a charge could be framed under section 217 of the IPC, the reference to the direction for the petitioner to be charged or to be tried under the charges framed under Section 217 of the IPC appears to be a typographical error in the order dated 21.5.2024. This Court notices that the sentence by which the petitioner was directed to be tried reads as "*and thus 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."*

This amply displays that the intent of the order dated 21.05.2024 was to have the petitioner tried on the charges of committing an offence punishable

under section 218 of the IPC and not of committing an offence punishable under section 217 of the IPC. The learned Revisional Court by the order dated 24.03.2025 has already held that section 218 of the IPC is not attracted in the case of the petitioner.

This Court on going through the order dated 24.03.2025 passed in Crl.Rev. No. 53/2024 by the Court of the learned Additional Session Judge No. 1, Kamrup, Metro, Guwahati finds that once the learned Court had come to a conclusion that the provisions of section 218 of the IPC was not attracted in the case of the petitioner, there was no necessity for the Court to have examined whether the case of the petitioner would be covered by any other provision of the IPC, more so, when no such prayer had been referred to either on behalf of the State or on behalf of the petitioner in the criminal revision proceedings.

It was in that view of the matter that this Court had kept that part of the Revisional Court in abeyance, while issuing notice in this case. Having gone through the materials on record, this Court deems it appropriate to make absolute the interim protection granted to the extent that Paragraph 12 to Paragraph 19 of the order dated 24.03.2025 passed by the learned Additional Session Judge No. 1, Kamrup, Metro Guwahati in Crl.Rev. No. 53/2024 shall stand set aside and quashed and deleted from said order.

Accordingly, the proceedings under PR Case No. 234/2023 shall also stand closed since the Revisional Court had already held that the provisions of Section 218 of the IPC would not be attracted and also since the provisions of Sections 98(a) of the Assam Police Act cannot stand alone to have the effect of having the petitioner face a trial.

The Criminal Petition is accordingly allowed to the extent indicated above.

JUDGE

Comparing Assistant