

GAHC040006382026

2026:GAU-AP:438



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

**Case No. : Crl.Petn./107/2026**

Devo Saikia and Anr  
Son of Shri Jibon Saikia, permanent resident of Village Harmuti Tunijan, PO and SP  
Laluk, North Lakhimpur District, Assam.

2: Smti Dami @ Yami Dubi  
Age:  
Occupation :  
Wife of Devo Saikia  
permanent resident of Village Pisa  
PO and PS Daporijo  
Upper Subansiri District  
Arunachal Pradesh

VERSUS

The State of AP  
represented by the PP of AP

**Advocate for the Petitioner** : Uttam Bori, Wanglak Wangsa, Moni Bori

**Advocate for the Respondent** : P P of AP,

**BEFORE  
HONOURABLE MR. JUSTICE ANJAN MONI KALITA**

**JUDGMENT**

**Date : 07.05.2026**

Heard Mr. U. Bori, learned counsel for the petitioners. Also heard Ms. L.

Hage, learned Additional Public Prosecutor for the State.

**2.** The instant criminal petition has been filed jointly by the petitioners under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying for quashing and setting aside the Charge-Sheet No. 17/2026, corresponding to G.R. Case No. 51/2025, arising out of Daporijo P.S. Case No. 44/2025, registered on the basis of FIR dated 01.07.2025, under Sections 305(a)/238 of the BNS, 2023, pending before the Court of the learned Chief Judicial Magistrate, Daporijo, on the basis of the settlement arrived at between the parties.

**3.** The facts of the case, in brief, are that the petitioner No.2, who is the wife of the petitioner No.1 lodged an FIR dated 27.05.2025 against her husband (petitioner No.1) before the Officer-in-Charge, Daporijo Police Station, Itanagar, which was registered on 01.07.2025 after the preliminary enquiry. It is stated that the informant married the accused (petitioner No.1) in the year 2019. It is alleged that from 2023 onwards, he started abusing and physically assaulting her. It is further alleged that on 14.03.2025 at about 10:30 PM, the accused assaulted the informant and stole her ATM card, gold ring and bracelet, and thereafter fled away.

**4.** On the basis of the aforesaid FIR, the police registered Daporijo P.S. Case No. 44/2025, under Sections 305(a)/238 of the BNS, 2023. The matter was investigated and upon completion of the investigation, Charge-Sheet No. 17/2026 dated 17.02.2026 under Sections 305(a)/238 BNS was submitted before the Court of the learned Chief Judicial Magistrate, Daporijo, for trial.

**5.** Mr. Bori, learned counsel for the petitioners submits that the entire dispute is purely matrimonial in nature arising out of a sudden domestic quarrel

between the husband and wife and does not involve any element of criminal intent or premeditation. He further submits that on 06.04.2026, the petitioner No.1 approached petitioner No.2 and tendered an unconditional apology, which was accepted by the petitioner No.2, and thereafter the parties executed a Mutual Deed of Settlement dated 06.04.2026, which is annexed as Annexure-3 to the petition, before the Notary Officer, Government of Arunachal Pradesh, thereby amicably resolved the dispute mutually. It is also submitted that the petitioner No.1 has returned all the valuables of the petitioner No.2 and both the petitioners have no grievance against each other and are not interested in pursuing the case any further.

**6.** Learned counsel further submits that though the offence under Section 305(a) BNS is non-compoundable, this Court may exercise its inherent powers under Section 528 of the BNSS to quash the proceedings in view of the voluntary settlement, as the substratum of the dispute no longer survives and continuation of the present criminal proceedings would amount to abuse of the process of law. It is submitted that continuation of the trial in such a private matrimonial dispute would serve no fruitful purpose and would only cause unnecessary hardship and prejudice to the parties, particularly the petitioner No.1. Accordingly, in view of the settled position of law that criminal proceedings arising out of matrimonial disputes can be quashed upon amicable settlement to secure the ends of justice, this Court may be pleased to quash the FIR and the charge-sheet along with all subsequent proceedings arising therefrom. Mr. Bori, further submits that the learned Chief Judicial Magistrate, Daporijo, has not yet taken cognizance of the charge-sheet and the trial is yet to commence.

**7.** Ms. L. Hage, learned Additional Public Prosecutor for the State, submits that since the matter is between the wife and the husband and the dispute has been mutually settled between the parties, considering the harmony life and welfare of their children and as the informant and the victim have expressed that they have no further grievance against the accused petitioner No. 1 (husband) and does not want to pursue the matter any further, she has no objection if the prayer of the petitioners quashing the proceedings of the case is allowed.

**8.** This Court has heard the submissions of the learned counsel for the respective parties and has also gone through the materials placed before this Court.

**9.** On the agreement of the learned counsel appearing for the parties, this Court has decided to dispose of the matter at the motion stage itself without calling for the Trial Court Records (TCR).

**10.** It is submitted that both the petitioners have already amicably settled the matter by executing a Mutual Deed of Settlement dated 06.04.2026, wherein it has been clearly recorded that the dispute between the parties have been resolved. It is further agreed between the parties that they do not wish to pursue the criminal proceedings any further. Both parties have undertaken to maintain peace and harmony henceforth.

**11.** Although the offence under Section 305(a) of BNS is a non-compoundable offence, the Hon'ble Supreme Court in the catena of judgments, including the decision in the case of ***Gian Singh Vs. State of Punjab***, reported in **(2012) 10 SCC 303**, has held that in cases involving matrimonial disputes where the parties have amicably settled the matter, the High Court in exercise of the

inherent powers provided under Section 498 of the Cr.P.C. (528 of BNSS, 2023) and quash the proceedings to secure the ends of justice and to prevent abuse of process of the Court.

**12.** In view of the aforesaid settlement of the matter and considering that the offence alleged to have been committed is not a major offence or a heinous crime having a serious impact on society, this Court is of the considered opinion that the present case is one where the inherent powers of this Court under Section 528 of the BNSS, 2023 can be invoked, as the chances of conviction are far too bleak and remote and the continuance of such proceedings in the present case would be futile and an abuse of the process of law.

**13.** The law relating to quashing of criminal proceedings in non-compoundable offences on the basis of compromise between the parties under Section 528 of the BNSS has been enunciated by the Hon'ble Supreme Court in the case of State of **Madhya Pradesh vs. Laxmi Narayan & Ors.**, reported in **(2019) 5 SCC 688**. The paragraph 15 of the aforesaid judgment, being relevant, is extracted hereinbelow:

*“15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:*

*15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;*

*15.2. Such power is not to be exercised in those prosecutions which involved heinous and*

*serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;*

*15.3. Similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;*

*15.4. Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under [Section 307 IPC](#) and/or the [Arms Act](#) etc. which have a serious impact on the society cannot be quashed in exercise of powers under [Section 482](#) of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of [Section 307 IPC](#) in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307 IPC](#) is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under [Section 307 IPC](#). For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of *Narinder Singh (supra)* should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;*

*15.5. While exercising the power under [Section 482](#) of the Code to quash the*

*criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”*

**14.** In view of the aforesaid settlement of the dispute and considering that the offence alleged to have been committed is not a major offence or a heinous crime having a serious impact on society, this Court is of the considered opinion that the present case is one where the inherent powers of this Court under Section 528 of the BNSS, 2023 can be invoked, as the chances of conviction are far too bleak and remote and the continuance of such proceedings in the present case would be futile and an abuse of the process of law.

**15.** Having regard to the facts and considering that the petitioners have filed this petition jointly after amicably settling the disputes between the husband and wife, the continuation of the criminal proceedings would serve no fruitful purpose and would only cause harassment to the parties, which would amount to an abuse of the process of law. Further, taking into account the ratio laid down by the Hon'ble Supreme Court in the aforesaid cases of **Laxmi Narayan & Ors. (supra)** and **Gian Singh (supra)**, this Court is of the considered opinion that the instant case is one where the inherent powers of this Court under Section 528 of the BNSS could be invoked. Consequently, the proceedings in the Charge-Sheet No. 17/2026, corresponding to G.R. Case No. 51/2025, arising out of Daporijo P.S. Case No. 44/2025, registered on the basis of FIR dated 01.07.2025, under Sections 305(a)/238 of the BNS, 2023, are hereby

quashed and set aside.

**16.** The criminal petition stands disposed of, as allowed.

**JUDGE**

**Comparing Assistant**