

GAHC040013772025



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

Case No. : Crl.Petn./184/2025

Khumbongmayum Binayet Singh and 4 Ors
Son of Khumbongmayum Surjakanta Singh of Sagolband Ingudam Leirak Near
Thangapat Restaurant, Imphal West, Manipur 795001

2: Takhellambam Bobo Singh

Age:

Occupation :

Son of Late T Iboton Singh of Kwakeithel Moirangpurel

PO and PS Imphal

Imphal West District

Manipur 795001 proprietor of M/s Manikumar Variety Store

Leimakhujam Leikai

Imphal West District

Manipur

3: Maisnam Jelly Singh

Age:

Occupation :

Son of Late Maisnam Bidhu Singh of Sagolband Meino Leirak Maisnam

Nongthomba Leikai

PO and PS Lamphel

Imphal West District

Manipur 795001

4: Smti Ayekpam Premabati Devi

Age:

Occupation :

Wife of Ayekpam Manitomba Meete of Sagolbang Tera Loukrakpam Leikai

Imphal West District

Manipur 795001 opposite Takyel Industrial Estate Complex

5: Henarina Ayekpam

Age:

Occupation :

Daughter of Ayekpam Manitiba Meetei of Sagolband Tera Loukrakpam Leikai
Imphal West District
Manipur 795001 opposite Takyel Industrial Estate Complex

VERSUS

The State of AP and 5 Ors
represented by the PP of AP

2: Bengia Sunday

Age: 23

Occupation :

Son of Shri kame Bengia
resident of Itanagar
PO and PS Itanagar
Papum Pare District
Arunachal Pradesh.

3: The Branch Manger

Age: 0

Occupation :

Axis Bank
Imphal Branch
Imphal
Manipur.

4: The Branch Manager

Age: 0

Occupation :

State Bank of India
Imphal Branch
Imphal
Manipur.

5: The Branch Manager

Age: 0

Occupation :

Indian Bank
Uripok Branch
Imphal
Manipur.

6: The Branch Manager

Age: 0

Occupation :

State Bank of India
Tera Bazar Branch

Imphal
Manipur

Advocate for the Petitioner : Minki Boje, Nending Kago

Advocate for the Respondent : P P of AP,

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

ORDER

Date : 20.08.2025

Heard Mr. M. Boje, learned counsel appearing for the petitioners. Also heard Ms. L. Hage, learned Additional Public Prosecutor for State respondent No. 1.

2. The instant application under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed by the petitioners praying for setting aside the order dated 21.11.2024, passed by the learned Judicial Magistrate First Class, Yupia, District Papum Pare in Zimma Application No. 32/2024 (Shri Bengia Sunday Vs. State of A.P.) in connection with Ita P.S. Case No. 183/2024, and for other consequential reliefs.

3. The case that has been projected by the petitioners is that, one FIR was lodged before the Officer-In-Charge, Itanagar Police Station, by one Smti Bengia Yanang, proprietor of M/s Kakum Enterprise, resident of 'D' Sector, Itanagar, on 07.10.2024, alleging that a person name Harishankar Pandey met her introducing himself as brokers who can provide donation to NGOs. It was further alleged that the said Harishankar Pandey will get her NGO a donation of Rs. 18,00,00,000/- (Rupees eighteen Crore) from a company and out of which she has to give the company back Rs. 12,00,00,000/- (Rupees twelve Crore), and rest of the money can be used by her. Getting such a proposal, initially, she

denied for any kind of an arrangement, but finally, she agreed to get into such kind of an arrangement since one of her relatives, who runs another NGO by name of Sangh Langrh Multipurpose Co-operatives Society Pvt. Ltd., has also agreed to get into such agreement.

4. It was further alleged that in the month of August, 2024, the aforesaid Harishankar Pandey told her that the company as agreed to finance her and requested for Rs. 2,50,000/- (Rupees two lakhs fifty thousand) for paperwork. Accordingly, the informant transferred Rs. 2,50,000/- (Rupees two lakhs fifty thousand) to the account No. of one Kumari Renu (who Harishankar Pandey claimed to be his wife) on 22.08.2024. The aforesaid Harishankar Pandey then told her to make a demand draft of Rs. 12,00,00,000/- (Rupees twelve crore) in the name of M/s Smart PSP Pvt. Ltd (Account No. 50200091186265, HDFC Bank), once the money is transferred into the informant's NGO account, the company will give her NOC and then he will collect the demand draft accordingly. It was alleged that the money never came into informant's account. Hence, the informant got the demand draft cancelled. The said Harishankar Pandey gave her an excuse that due to some technical difficulties, the money could not be transferred by the company to her account. Then again on 22.09.2024, the said Harishankar Pandey along with another accomplice who introduced himself as Mahavir Sah (representative from the company), came to Itanagar and informed the informant that a green signal has been received from the company and that is why he has been accompanied by the representative of the company. Therefore, Harishankar Pandey asked the informant to prepare 3(three) DDs of Rs. 4,90,00,000/- (Rupees four crore ninety lakhs) of DD No. 858848 dated 25.09.2024 in favour of Lurul Enterprises and Rs. 4,90,00,000/- (Rupees four crore ninety lakhs) of DD No. 858849 dated 25.09.2024 in favour

of M/s I.K. Soibam & Sons and Rs. 2,20,00,000/- (Rupees two crore twenty lakhs) of DD No. 858854 dated 25.09.2024 in favour of Jasmine Black Gold. However, as agreed, before any confirmation, the original instrument will be kept by the informant and only on the confirmation, the same will be handed over to them. After preparation of DD, the staff of the informant sent the photos of DDs to Mahavir Sah (representative of the company) and asked him to facilitate the transfer of the amount to the NGO account, run by the informant. It is alleged that both Harishankar Pandey and Mahavir Sah left Itanagar for Guwahati on 27.09.2024, with Harishankar Pandey saying that his wife had suffered a heart-attack and he had to urgently leave. He further gave a phone number of another executive of their company, namely, Prabhakar Tiwari, and told the informant that the money will be credited in a week or so.

5. The informant further alleged that after waiting for 11(eleven) days, as there was no confirmation coming as for the transfer of money and nothing has been received in the NGO account from the company, she went to the bank on 05.10.2024 for cancellation of the aforesaid DDs as the original DDs were with her. However, when she visited the bank, she got a shock that 2(two) of the DDs bearing Nos. 858854 and 858849 respectively had already been withdrawn by the aforesaid 2(two) persons, namely, Harishankar Pandey and Mahavir Sah from the Bank in Meghalaya and Imphal on 30.09.2024 and 01.10.2024 respectively. She stated that, she could cancel the draft No. 858848. Thereby, she alleged that she has been cheated with a sum of Rs. 7,10,00,000/- (Rupees seven crore ten lakh). She alleged that, the aforesaid amount has been withdrawn by the accused persons, namely, Harishankar Pandey and Mahavir Sah with connivance of bank authorities by forging the bank draft and counterfeiting the seal of bank authorities etc., by creating false documents in

favour of M/s I. K. Soibam & Sons and in favour of Jasmine Black Gold.

6. In view of the aforesaid FIR, the G.R. Case No. 1035/2024 arising out of Itanagar P.S. Case No. 183/2024 under Sections 61(2), 318(4), 336(2), 336(3), 340(1), 340(2), 341(1), 341(2)/ 339 BNS, 2023, was registered. It is submitted by the learned counsel for the petitioners that the police investigation is still going on in the instant case and the charge-sheet is yet to be filed in the matter.

7. The learned counsel for the petitioners submits that a Zimma application No. 32/2024 under Section 497 read with Section 503 of BNSS, was filed by Shri Bengia Sunday, who is the son of the informant and on the basis of a police report dated 22.11.2024, the learned trial Court i.e., the Court of Judicial Magistrate First Class, Yupia, District Papum Pare, Arunachal Pradesh has allowed the aforesaid Zimma application by directing the respective Bank Branch Managers mentioned in annexures 1 and 2 of the police report to release the amount frozen in their banks in connection with the instant case, in favour of the rightful owner, Shri Bengia Sunday (bearing SBI account No. 41763748442, Itanagar Branch).

8. The learned counsel for the petitioners submitted that the petitioner Nos. 1 to 5, are neither connected to the offence nor their names have been mentioned in the FIR. He submits that though their accounts were frozen, the learned trial Court without hearing them passed an order directing the release of the money lying in the accounts.

9. Ms. L. Hage, learned Additional Public Prosecutor appearing on behalf of the State submits that this instant petition is not maintainable because the order passed by the learned trial Court is under Section 497 and so the order can be termed as final order and for challenging the final order, the petitioners should

have approached this Court under a revision petition rather than filing a petition under Section 528 of BNSS, 2023.

10. Heard both the parties.

11. Issue notice to the respondents, returnable within 4 (four) weeks.

12. Since Ms. L. Hage, learned Additional Public Prosecutor, has entered appearance and accepted notice on behalf of State respondent No. 1, no formal notice is required to be issued to the said respondent. However, she shall be provided with requisite extra-copy of the petition during the course of the day, if not already furnished.

13. The learned counsel for the petitioners shall take steps for service of notice upon respondent Nos. 2 to 6 by registered post with A/D as well as by usual process within 3(three) days from today.

14. Registry is directed to call for the scanned copy of TRC from the Court of learned JMFC, Yupia. Meanwhile, the scanned copy of the Case Diary shall be produced by the office of the Public Prosecutor on the next date of listing.

15. As far as maintainability of the petition, the learned Additional Public Prosecutor can argue the issue on the next date of hearing.

16. List the matter after 4(four) weeks.

JUDGE

Comparing Assistant