

GAHC040017602025



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

Case No. : Crl.Petn./232/2025

Chopa Cheda
Son of Late Bolu Cheda, residence of Lasak Cheda Village, PO Pipu, PS
Chayangtajo, East Kameng District, Arunachal Pradesh 790104

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Jambey Tsering Kee, Techhi Topu

Advocate for the Respondent : P P of AP,

-BEFORE-

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

-ORDER-

12.06.2026

Learned counsel Mr. Jambey Tsering Kee is present on behalf of the petitioner, namely, Chopa Cheda, who has filed this application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') with prayer for quashing and setting aside the entire criminal proceeding arising out of Rupa P.S. Case No. 06/2014 which is pending before the learned CJM, Bomdila corresponding to G.R. Case No. 04/2014

registered under Sections 341/336/427 of the Indian Penal Code (for short, 'IPC').

2. It is submitted that earlier this case was registered under Section 341/336/427 of the IPC read with Section 25/27 of the Arms Act, 1959 but after filing of the charge sheet, charges were framed under Section 341 of the IPC.

3. Heard the learned Addl. PP Mr. G. Tado for the State of Arunachal Pradesh.

4. I have considered the submissions at the Bar with circumspection.

5. It is submitted at the Bar that as this case is under Section 528 of BNSS, as per the notification No. HC. XI-07/2021/70/RC, dated 20.03.2024, the complainant/ informant is not required to be arrayed as private respondent. It is the contention of the petitioner that the order of framing charges clearly reveals that the Investigating Officer, who conducted the investigation failed to produce the Truck radiator along with the CFSL Report and it could not be ascertained that the bullet was fired and the Truck was damaged, as alleged. The allegation in the FIR was that on 25.02.2014 while the informant Suraj Chetry along with Govind Chetry were proceeding from Tawang to Tezpur in the Truck bearing No. AS-12C-5833, near Dumdum Nallah, a vehicle tried to overtake the Truck but the road was narrow, and later the vehicle overtook and stopped the Truck and one unknown person fired 3 (three) rounds from his pistol damaging the radiator of the Truck.

6. The FIR was lodged by the informant and investigation commenced

and finally charge sheet was laid, and as no case under Section 336/427 of the IPC read with Section 25/27 of the Arms Act could be made out, the petitioner who was arrayed as an accused was discharged from the aforementioned Sections of law and offence was explained under Section 341 IPC and thereafter, the case proceeded for trial.

7. It is also submitted at the Bar that the Court could not produce any witness and the Investigating Officer was examined and vide order dated 21.05.2025 cross-examination of the Investigating Officer was dispensed with. The order dated 21.05.2025 of the learned CJM reflects that service of summonses issued to witness Shri Gobind Chetry and Suraj Chetry were returned with note that the summonses were duly served but the summonee were deliberately absent and upon enquiry, it was revealed that no one knows the whereabouts of the summonee i.e. Suraj Chetry and Gobind Chetry and also BWA of Rs. 500/- were issued and the warrants could not be executed as Gobind Chetry and Suraj Chetry could not be found in the given addresses and the Court further observed that no further summon shall be issued to the informant and the eye witnesses. The Investigating Officer was examined but the cross-examination was dispensed with and this has been reflected in the order dated 21.05.2025. This case was then fixed for necessary orders. Only one witnesses has been examined so far.

8. It is submitted at the Bar as the prime witnesses could not be produced by the prosecution, further proceeding will be an abuse of the process of the Court. Moreover, this case has been pending since the year, 2014 and not a single witness could be produced. The Investigating

Officer was also not cross-examined as it is discernable that no incriminating materials could be found. It is also submitted that this case is only a proceeding under Section 341 of the IPC which can be considered to be a minor offence. The allegation also depicts that only the radiator of the Truck was damaged but no *prima facie* materials were found under any sections of the Arms Act, 1959.

9. Mr. Tsering, learned counsel for the petitioner also submits that Section 341 cannot stand alone in isolation when the primary offences have already been dropped, basing on which, the foundation of the aforementioned case was built and structured. It is further contended that in order to establish an offence under Section 341 of the IPC, the prosecution must prove voluntary obstruction by the accused without any lawful justification. However, in the present case, such ingredients are absolutely silent and there is no material on record pointing towards the guilt of the accused person. Furthermore, the accused is being subjected to harassment since last 2014 without there being any *prima facie* material justifying a valid case.

10. When Trial Court has decided not to issue notices to the prime witnesses, the possibility of conviction appears to be remote and bleak.

11. I have also considered the submissions at the Bar that it is a clear case of acquittal. Further proceeding will be an abuse of the process of the Court.

12. The learned counsel for the petitioner has relied on a decision of this Court in the case of ***Lokam Talo-vs-State of Arunachal Pradesh***;

reported in **2025 Supreme (Gau) 1331** and the relevant paragraphs are extracted hereinbelow for ready reference:-

“22. It is not disputed that though the FIR was filed way back in the year 2006, the Charge-sheet has been filed in the year 2022 only, after a period of 16 years. Any explanation of such delay of 16 years in filing the Charge-sheet could not be found on record”.

“23. On perusal of the TCR, it reveals that as many as 3(three) of the PWs, which have been listed as witnesses in the Charge-sheet are yet to be served with summons. 2(two) of the witnesses named in the Charge-sheet have already been dropped, on the request of the P.P. before the Trial Court as the summons to them could not be served in spite of several attempts, as their whereabouts are not known”.

“26. As far as, other charges framed against the accused/petitioner is concerned, it cannot be denied that the FIR, prima facie, disclose a cognizable offence on the basis of which the investigation was completed and charge-sheet was also filed against the accused/petitioner”.

“27. On perusal of the statement of the PWs recorded till date, as well as the fact that dropping of 2(two) of the PWs and also keeping in view the fact that summons could not be served to 3(three) of the main PWs for the prosecution, this Court is of the view that the chances of conviction of the accused/petitioner in the present case, is very remote and doubtful even if the case is allowed to be proceeded further, taking into account of the fact that the informant PW-1 has been declared hostile and has already expired and the statement of the PW-2 also does not disclose any offence committed by the accused/petitioner”.

“28. This Court has considered the ratios that have been laid down by the Hon'ble Supreme Court in the aforesaid cases cited by the learned Addl. P.P. and there is no iota of doubt of the principles those have to be considered by this Court while exercising it's power under Section 528 of the BNSS, 2023”.

“29. In due consideration of all the material facts of the instant case, as well as the objection raised by the learned Addl. P.P., this Court is of the considered view that substantial justice may not be served if the aforesaid proceeding against the accused/petitioner, in connection with G.R. Case No. 133/2006, under Sections 384/511 of the IPC, corresponding to ITA P.S. Case No. 127/2006 is allowed to go ahead at this stage. Accordingly, the entire criminal proceeding against the accused/petitioner in connection with G.R. Case No.133/2006, under Sections 384/511 of the IPC, corresponding to ITA P.S. Case No. 127/2006 is hereby set aside and quashed”.

13. Reverting back that, it is held that this case is pending for more than

12 years and no witnesses could be produced.

14. I have also considered that the offence was explained to the petitioner under Section 341 of the IPC. I find force in the submission made on behalf of the learned counsel for the petitioner. Therefore, in view of the foregoing discussions, further proceeding in respect of G.R. Case No. 04/2014 registered under Sections 341/336/427 of the IPC arising out of Rupa P.S. Case No. 06/2014 pending before the learned CJM, Bomdila is hereby set aside and quashed.

In view of the above observation and findings, this Criminal Petition stands disposed of.

JUDGE

Comparing Assistant