

GAHC010282892025



2026:GAU-AS:4316

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

Case No. : Crl.Pet./1608/2025

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PP, ASSAM

MOBILE NO. 600198894

Advocate for the Petitioner : MR. N J DUTTA, MR. Y ALI, MR. A K AHMED
Advocate for the Respondent : PP, ASSAM, S RAHMAN(R-2), MR S ISLAM (R-2)

BEFORE
HONOURABLE MR. JUSTICE PRANJAL DAS

Date on which judgment is reserved : 19.03.2026

Date of pronouncement of judgment :

Whether the pronouncement is of
the operative part of the judgment? : NA

Whether the full judgment has been Pronounced? : Yes

JUDGMENT & ORDER (CAV)

1. Heard Mr. N. J. Dutta, learned counsel for the petitioner. Also heard Mr. M. P. Goswami, learned Additional Public Prosecutor and Mr. S. Islam, learned counsel for the informant.
2. Invoking the jurisdiction of 528 of the BNSS, the petitioner is seeking quashing of criminal proceedings by way of Fakirganj PS Case No. 16/2025 (GDE No. 10 dated 1/2/2025); charge sheet No. 44/2025 dated 30/4/2025 submitted after completion of investigation in the said case under Section 329(4)/64/351(2) of the BNS read with Section 4 of the POCSO Act.
3. The case had arisen out of an FIR dated 1/2/2025 lodged by the father of the alleged victim girl with the allegation that on 29/1/2025 at 4 PM, while his wife was absent at home, the accused petitioner entered their house and committed rape upon her daughter while she was alone and thereafter, he escaped and threatened her not to disclose the incident. It is further alleged that in the evening he came to know about the incident and also that her clothes were torn at that time.
4. The primary contention of the petitioner side is that in the meantime, an agreement dated 30.05.2025 was entered into between the accused petitioner and the informant whereby they are stated to have compromised the matter and the informant recording his no objection to the quashing of this matter.
5. It is submitted by the learned counsel that in the meantime, the girl has also become a major and they were in a love relationship earlier when

the alleged incident is stated to have taken place and that now, with the consent of both the families, the accused petitioner and the girl are proposing to enter into matrimony and live together. Therefore, the petitioner is seeking quashing of this proceeding.

6. The learned counsel has also drawn attention to one FIR dated 1/2/2025, lodged by the mother of the petitioner against 5 persons who are stated to be members of an organization called NEMSU (Northeast Minority Students Union). It is emphasized by the learned counsel that this FIR was lodged prior to the FIR against the present petitioner. It is submitted that the FIR against the present petitioner giving rise to this case was lodged at the behest of the members of this organization NEMSU.

In support of his contention, learned counsel for the petitioner relies upon the following decisions.

- (1) *Iqbal @ Bala & Ors vs State of UP and Ors. Reported in 2023 0 Supreme(SC) 692.*
- (2) *Prashant vs State of NCT of Delhi reported in 2024 0 Supreme (SC) 1069.*
- (3) *Kamrul Hussain @ Amrul Hussain @ Rinkul in Crl. Pet. 865/2025.*
- (4) *Aminul Hoque @ Aminur Mirda vs State of Assam & Anr. in Crl. Pet. 1393/2025.*
- (5) *Sajid Laik Shekh vs State of Maharashtra reported in 2025 BHC- AS-52189-DB.*

(6) *Ramji Lal Bairwa & Anr. Vs State of Rajasthan & Ors. Reported in Criminal Appeal No. 3403 of 2023 @ SLP (Crl.) No. 12912 of 2022.*

7. The learned counsel for the informant submits that he has filed an additional affidavit and drawn attention to para 7 thereof and submits that the informant has no objection to quashing the proceedings and he also submits that they are going to marry. Paragraph 7 of the said additional affidavits may be reproduced herein below:

“That the statements made in paragraph 5 of the instant petition are true, hence I have admitted the same. It is true that on 18.07.2025 I and the accused sat together and executed a deed of compromise vide SI No. 09/2025 dated 30.05.2025 and in the Deed I am the first party and the accused is the second party and the said Deed was executed in presence of two witnesses wherein I admitted that the allegations of rape on my daughter was the outcome of coercion and influence of some NEMSU members and I also stated that nothing happened on my daughter as I claimed in the FIR. I also expressed my view that if the petitioner files quashing petition, I shall not object. Annexure-3 annexed to the said criminal petition is true and the same was executed by me and the accused. Therefore, I have admitted the statements made in paragraph 5.”

8. On the other hand, learned Additional Public Prosecutor submits that in her statement available from the scan record, the girl has implicated the accused petitioner about commission of rape. It is submitted that the penal provisions under which the case has been registered and subsequently charge-sheeted fall under serious offences and therefore, raises question as to whether the powers under Section 528 BNSS can be exercised to quash such criminal proceedings.

In support of his contentions, the learned Additional Public Prosecutor cites the following decisions:

- (1) *Mala Choudhury & Another vs State of Telengana and Another reported in 2025 SCC online SC 1474.*
- (2) *Altaf vs State Govt. of NCT of Delhi and Another reported in Crl. MC 2363/2025 & Crl. M. A. 10629/2025.*

9. I have perused the materials and considered the submissions. I have also perused the decisions cited at the bar.

10. The law relating to the quashing of criminal proceedings pursuant to settlement between the parties has crystallized through several important decisions of the Hon'ble Supreme Court. In this regard, reference may be made to *Narinder Singh and others vs State of Punjab and another, (2014) 6 SCC 466* and *State of Madhya Pradesh vs Laxmi Narayan and others, (2019) 5 SCC 688*.

11. The relevant paragraph *Narinder Singh and others vs State of Punjab and another, (2014) 6 SCC 466* may be reproduced herein below:

“29. In view of the aforesaid discussion ne sum up nod lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement betu.cen the parties and exercising its power under Section 182 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings

29.1. Power conferred under Section 182 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt. under Section 182 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis is petition for quashing the criminal proceedings is filed, the

guiding factor in such cases would be to secure:

(1) ends of justice. or

(17) to prevent abuse of the process of any court

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve 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. Similarly, for the offences alleged to have been committed under special statute like the 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

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases:

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the HR of 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 proving the charge under Section 307 1PC. 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 delicate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong

possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship

29.7. While deciding whether to exercise its power under Section 182 of the Code or not, timing of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been tiled. Likewise, these cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage the High Court can show benevolence in exercising its powers favorably, but after prima facie assessment of the circumstances material mentioned above. On the other hand where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument. Normally the High Court should refrain from exercising its power under Section 482 of the Code. as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court, Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and therefore, there is no question of sparing a convict found guilty of such a crime."

12. The relevant paragraph *State of Madhya Pradesh vs Laxmi Narayan and others, (2019) 5 SCC 688* may be reproduced herein below:

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

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offenses 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, dacoits 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 the 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 on the Arms Act etc. shall 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 107 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 framed 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 inherited on the vital/delicate parts of the body nature of weapons used, etc. However, such an exercise by the High Court would he 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 paras 29.6 and 29.7 of the decision of this Court on Varinder Singh Narinder Singh & State of Panjah, (2014) 6 SCC 166 (2014)5 SCC (Crit 54] should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove

15.5 (Ed.: Para 15.5 corrected vide Official Corrigendum No. F.3/Ed.B.J/22/2019 dated 34-2019. 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.

13. The law laid down by the Hon'ble Apex Court on the subject matter carves out exceptions for serious and heinous offences including offences having impact on society and powers of quashing cannot be exercised to quash these kind of offences, even if the parties have arrived at a settlement. Such a quashing in these kinds of cases may not be in the interest of society and hence, discouraged.

14. In *Iqbal @ Bala & Ors vs State of UP and Ors. Reported in 2023 0 Supreme(SC) 692* relied upon by the petitioner, the allegations in the FIR were not found to be very convincing and specific date, time, etc. of the alleged offenses were also not furnished. Nevertheless, instead of quashing the proceedings, the petitioners were relegated to the trial court to seek discharge.

15. The decision in *Prashant vs State of NCT of Delhi reported in 2024 0 Supreme (SC) 1069* relied upon by the petitioner does not help the petitioner's case as the facts of the said case are on a different footing. In

that case, it was found that even after the accused was alleged to have forceful sexual relationship with the girl, she did not stop meeting him and continued to maintain association with him and therefore, Court found the accused and the complainant, both educated adults, to be in a consensual relationship.

16. The decision in *Ramji Lal Bairwa & Anr. Vs State of Rajasthan & Ors. Reported in Criminal Appeal No. 3403 of 2023 @ SLP (Crl.) No. 12912 of 2022* does not help the petitioner's case as it was held in that case that quashment of proceedings initiated under POCSO Act abruptly by invoking power under Section 482 Cr.P.C without permitting it to mature into a trial, except on extremely compelling reasons, ex facia, malafidely initiated or initiated solely to settle scores, would go against the very intention of the Legislature behind the enactment.

17. In the decision of *Altaf vs State Govt. of NCT of Delhi and Another reported in Crl. MC 2363/2025 & Crl. M. A. 10629/2025* relied upon by the Prosecution, the Delhi High Court did not accept the prayer for quashing based on settlement between the accused and the parents of the girl, who was found to be still a minor.

18. In the instant case, the victim girl is stated to be a major at present and though it is contended that she and the accused petitioner are proposing to get married – however, she has not entered into any agreement with the accused petitioner. Rather, the agreement has been entered into by the accused petitioner with the father of the girl, who was the informant in the case.

19. The girl being a major at present, her opinion is very much pertinent

with regard to the issue. After all, she was the victim of the alleged incident. From her statements recorded before learned JMFC and as well as police during the investigation, she has consistently stated about commission of rape and has not indicated any consent on her part. It is true that in such statements she has stated about her love affair, but any such physical relationship between the parties being consensual does not emerge from her statements. Rather, it is the opposite.

20. Even if a man and a woman are in a relationship; that would certainly not give a license to the man to commit rape upon the girl. Though marital rape is still not criminalized in the country, but even in a premarital love relationship between a man and a woman; committing forceful physical relationship upon her against her wish would still be a criminal act.

21. As per the materials, *prima facie* the girl is stated to be a minor aged about 17 years at the time of the alleged rape. Therefore, in the given facts and circumstances; considering the nature of the penal provisions involved and the principles laid down by the Hon'ble Supreme Court, especially with regard to quashing vis-a-vis certain kinds of serious offences - I come to the considered opinion that it would not be justified to quash the criminal proceedings in exercise of the inherent powers of the court.

22. Consequently, the instant criminal petition stands **dismissed** and **disposed of**.

JUDGE

Comparing Assistant