GAHC010229292026

2026:GAU-AS:15709

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

Case No.: WP(C)/3537/2026

SRI ARUP KUMAR DAS
SON OF LATE KASHINATH DAS AND SMTI KANMAI DAS
THE RESIDENT OF GINGIA
VILLAGE P.O-GINGIA
DISTRICT -BISWANATH
ASSAM
PIN-784184

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-06.

2:THE SUPERINTENDENT OF POLICE
BISWANATH CHARIALI
DISTRICT-BISWANATH
PIN-784176

3:THE OFFICER IN CHARGE
GINGIA POLICE STATION
BISWANATH DISTRICT
PIN-784184

4:SRI SANTOSH THAKUR
SON OF LATE MUNNILAL THAKUR
RESIDENT OF GINGIA
P.O./P.S.- GINGIYA
DISTRICT-BISWANATH
ASSAM
PIN784184.

5:SRI ASHOK THAKUR
RESIDENT OF VILLAGE PASCHIM GINGIA
P.O.-GINGIA
DISTRICT- BISWANATH
ASSAM
PIN-784184.

For the Petitioner (s) : Mr. A. Narzari, Advocate

For the Respondent(s) : Mr. J. Handique, Govt. Advocate
Mr. M.A. Sheikh, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

14.10.2026

Heard Mr. A. Narzari, the learned counsel appearing on behalf of the Petitioner. Mr. J. Handique, the learned counsel appears on behalf of the Respondent Nos.1 to 3 and Mr. M. A. Sheikh, the learned counsel appears on behalf of the Respondent Nos.4 & 5.

2. The present writ petition has been filed by the Petitioner being aggrieved by the non-registration of the FIR by the Respondent Nos.2 & 3, and as such, has sought for a direction upon the Respondent Nos.2 & 3 to register the FIR.

3. This Court finds it relevant to take note of the judgment of

the Supreme Court in the case of ***Sakiri Basu vs. State of U.P.***, reported in ***(2008) 2 SCC 409*** wherein the Supreme Court has clearly deprecated the practice of filing writ petition seeking directions upon the Police Authorities to register FIR. In the said judgment, it was observed that the party if aggrieved by the non-registration of an FIR can approach under Section 156(3) of the Code of Criminal Procedure, 1973.

4. It is seen that the Code of Criminal Procedure, 1973 stands repealed w.e.f. 01.07.2025 and it is replaced by the Bharatiya Nagarik Suraksha Sanhita, 2023 wherein a pari materia provision being Section 175(3) has been incorporated, and as such, if the Petitioner is aggrieved by the non-registration of the FIR, the Petitioner's remedy lies before the jurisdictional Magistrate for filing appropriate application under Section 175(3) of the BNSS.

5. Be that as it may, it is also seen that upon the filing of the FIR, Gingia P.S. Non FIR Case No.31/2026 was registered, and thereupon, the matter has been placed before the Executive Magistrate.

6. Mr. A. Narzari, the learned counsel appearing on behalf of the Petitioner submits that the Executive Magistrate has passed certain orders which are contrary to the provisions of law.

7. It is the opinion of this Court that if the Petitioner is

aggrieved by any order passed by the Executive Magistrate, the recourse is also available under the BNSS.

8. Accordingly, this Court therefore is not inclined to entertain the instant writ petition for which the writ petition stands dismissed.

9. Before parting with the record this Court, however, observes that the dismissal of the instant writ petition on being not entertained shall not prejudice of preclude the petitioner to approach the appropriate forum, if so advised.

JUDGE

Comparing Assistant