GAHC010196892025

2026:GAU-AS:15647

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

Case No. : Crl.Pet./1091/2025

SRI BIJOY KUTUM
SON OF LATE CHATIA KUTUM
PERMANENT RESIDENT OF BALIJAN PART-II, P.O. AND P.S. BOKAKHAT, DIST. GOLAGHAT, ASSAM, PIN-785612, PRESENTLY RESIDING AT MANJASHREE APARTMENT, JURIPAR PANJABARI ROAD, SIXMILE, GUWAHATI, KAMRUP (M), ASSAM, PIN-781022

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:SMTI. DIPALI PATIR
D/O SRI BABAI PATIR
PERMANENT RESIDENT OF VILL- LAMUCHUK SORIYANI
P.O. BILMUKH
P.S. GHILAMARA
DIST. LAKHIMPUR
ASSAM
PIN-787053
PRESENTLY RESIDING AT MANJASHREE APARTMENT
JURIPAR PANJAARI ROAD
SIXMILE
GUWAHATI
KAMRUP METRO
ASSAM
PIN-78102

Advocate for the Petitioner : MR. K R BORA, MR. D K BORAH,R GOGOI

Advocate for the Respondent : PP, ASSAM, MR D CHUTIA(R-2)

BEFORE
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

Date : 14.10. 2026

Heard Mr. K.R. Bora, learned counsel for the petitioner. Also heard Mr. B. Sarma, learned Additional Public Prosecutor for the respondent State and Mr. D. Chutia, learned counsel appearing on behalf of the respondent No. 2.

2. The present criminal petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) seeking quashing of the First Information Report registered as Dispur P.S. Case No. 204/2022 dated 25.01.2022 under Sections 420/406/376(2)(n)/384 of the Indian Penal Code, the Charge-Sheet No. 134/2022 dated 29.04.2022 under Sections 420/376(2)(n) IPC, and all subsequent proceedings arising therefrom, including Sessions Case No. 163/2024 presently pending before the learned Additional Sessions Judge (FTC) No. 4, Kamrup (M), Guwahati.

3. The brief facts necessary for disposal of this petition are that the respondent No. 2 (informant) lodged an FIR on 25.01.2022 alleging, inter alia, that she and the petitioner had met through Facebook in the first week of July 2021, developed a relationship, started living together in a live-in relationship from the first week of August 2021 at Palacio Park, Guwahati, and that physical

relationship commenced on the promise of marriage. It was further alleged that after the petitioner left the shared residence on 17.01.2022, taking certain gold ornaments, the informant felt cheated and sought registration of a case. The case was registered under the aforementioned sections. The petitioner was arrested on 28.01.2022 and was later enlarged on bail on 05.03.2022. Investigation culminated in the filing of Charge-Sheet No. 134/2022. Cognizance was taken and the case was eventually committed to the Court of Sessions, where it is now pending as Sessions Case No. 163/2024.

4. It is the case of the petitioner that subsequent to the lodging of the FIR, the parties amicably resolved their differences. They solemnised their social marriage on 22.04.2022 according to Hindu rites at the residence of the petitioner at Bokakhat. Thereafter, their marriage was registered under Section 13 of the Special Marriage Act, 1954 before the learned Marriage Officer, Kamrup Metro, Guwahati, vide Certificate No. 2401/2022/1989 dated 06.06.2022. Out of the said wedlock, a daughter, namely Miss Krishnashree Kutum, was born on 11.12.2022. The parties have been living together happily as husband and wife ever since.

5. Respondent No. 2 has filed an Affidavit in Opposition in the present petition. In the said affidavit she has categorically stated that she is the legally wedded wife of the petitioner; that their social marriage was solemnised on 22.04.2022 and the marriage was registered on 06.06.2022; that they are living together

happily as husband and wife; that a female child was born to them on 11.12.2022; that the FIR was lodged due to a misunderstanding; that she had earlier given no objection to the grant of bail to the petitioner; and that she has no objection if this Hon'ble Court allows the present petition and quashes the proceedings of Sessions Case No. 163/2024 arising out of Dispur P.S. Case No. 204/2022.

6. Learned counsel for the petitioner submits that continuance of the criminal proceedings after the parties have married, settled their differences, and are living together with their minor child would amount to an abuse of the process of the Court. He relies upon the principles laid down by the Hon'ble Supreme Court in State of Haryana v. Bhajan Lal, AIR 1992 SC 604, particularly the illustrative categories set out in paragraph 102 of the said judgment, and submits that the present case falls within the categories where the inherent power of this Court ought to be exercised to secure the ends of justice.

7. Learned counsel appearing for respondent No. 2 has reiterated the stand taken in the Affidavit in Opposition and has submitted that the alleged victim has no objection to the closure of the criminal proceedings against her husband, as they are tied in a matrimonial relationship and are living happily with their daughter.

8. The learned Additional Public Prosecutor has fairly submitted that in the absence of co-operation of the victim herself during the trial, the probability of

securing a conviction would reduce dramatically, rendering the trial a non-fruitful exercise.

9. The learned counsel for the petitioner has drawn the attention of this Court to the judgment of the Hon'ble Supreme Court in State of Haryana v. Bhajan Lal, reported in AIR 1992 SC 604, wherein at paragraph 102 the Court has laid down as follows:

> *"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
>
> *(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
>
> *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a*

Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to a private and personal grudge."

10. Having heard the learned counsel for the parties and the learned Additional Public Prosecutor, this Court is of the opinion that the ratio laid down in Bhajan

Lals case is applicable to the present case. The informant/respondent No. 2 has stated that all disputes are settled. There is little or no possibility of conviction of the accused petitioner in the pending criminal proceeding. Allowing the criminal proceeding to continue would only result in the prolongation of the judicial process.

11. In the opinion of this Court, this is a fit case for exercising powers under Section 482 of the Code of Criminal Procedure, 1973 / Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The criminal petition is accordingly allowed. The First Information Report registered as Dispur P.S. Case No. 204/2022 dated 25.01.2022, the Charge-Sheet No. 134/2022 dated 29.04.2022, and all subsequent proceedings arising therefrom, including Sessions Case No. 163/2024 pending before the learned Additional Sessions Judge (FTC) No. 4, Kamrup (M), Guwahati, are hereby set aside and quashed

JUDGE

Comparing Assistant