GAHC010215552026

2026:GAU-AS:15367

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

Case No. : WP(C)/5424/2026

SASHI GOGOI
W/O SRI DAMBARU GOGOI, R/O STATION ROAD, MILAN NAGAR, WARD NO 3, P O DHEMAJI, P S DHEMAJI, DISTRICT DHEMAJI ,ASSAM

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE SECRETARY GOVERNMENT OF INDIA HOME DEPARTMENT NEW DELHI.

2:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM HOME DEPARTMENT DISPUR GHY-06.

3:THE SUPERINTENDENT OF POLICE
DHEMAJI
DISTRICT DHEMAJI
ASSAM.

4:THE SENIOR SUPERINTENDENT OF POLICE
DHEMAJI
DISTRICT DHEMAJI
ASSAM.

5:THE OFFICER IN CHARGE OF DHEMAJI SADAR POLICE STATION
P/O DHEMAJI
DISTRICT DHEMAJI
ASSAM
PIN-787057.

6:MR SUCHIBRAT BURAGOHAIN ADVOCATE
DHEMAJI DISTRICT BAR ASSOCIATION

DHEMAJI
P O DHEMAJI
DISTRICT DHEMAJI
ASSAM PIN-787057.

7:MR GUNIN KUMAR PHUKAN
ADVOCATE AND NOTARY
DHEMAJI BAR ASSOCIATION
DHEMAJI
REGN. NO. DMJ.04
P.O DHEMAJI
DISTRICT DHEMAJI
ASSAM
PIN-787057

Advocate for the Petitioner : MR S HOQUE, MR. JIAUR RAHMAN,MR. S ISLAM,S AHMED

Advocate for the Respondent : DY.S.G.I., GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

12.10.2026

Heard Mr. S. Hoque, learned counsel for the petitioner; Mr. S. Roy, learned Central Government Counsel [CGC] for the respondent no. 1; and Mr. N. Goswami, learned Junior Government Advocate, Assam for the respondent nos. 2 to 5.

2. It is the case of the petitioner that a First Information Report [FIR] lodged by the petitioner before the respondent no. 5 on 06.08.2026 was not registered by the respondent no. 5, despite the FIR disclosing commission of cognizable offences. The petitioner further stated that when the respondent no. 5 did not register the FIR, the petitioner forwarded her complaint to the respondent no. 3 by post and the office of the respondent no. 3 had received the same on 25.08.2026. But no action is found to have been taken by the respondent no. 3 as well.

3. When the writ petition was listed on 05.10.2026, Mr. Goswami, learned Junior

Government Advocate appearing for the respondent nos. 2 to 5 was asked to obtain instructions from the respondent no. 3 and the respondent no. 5 whether any action has been taken on the basis of the FIR, stated to have been lodged by the petitioner before the respondent no. 5 on 06.08.2026, and the complaint, stated to have been received by the respondent no. 3 on 25.08.2026.

4. Today, Mr. Goswami, learned Junior Government Advocate has submitted, on the basis of instructions received from the respondent no. 4, that on 06.08.2026, the respondent no. 5 received the FIR from the petitioner and the same was entered in the General Diary of Dhemaji Police Station vide G.D. Entry no. 49 dated 06.08.2026. After registration of the General Entry, a report was submitted to the respondent no. 4 by the respondent no. 5 seeking permission to conduct a preliminary enquiry as per the provisions of Section 173[3] of the Bharatiya Nagarik Suraksha Sanhita [BNSS], 2023. The respondent no. 4 accorded permission to the respondent no. 5 to conduct a preliminary enquiry on 10.08.2026.

4.1. A complaint petition submitted by the petitioner was also received at the office of the respondent no. 4 on 24.08.2026 and the same stood forwarded to the respondent no. 5 on 26.08.2026 for taking necessary action in accordance with law.

4.2. Pursuant to permission accorded by the respondent no. 4, a preliminary enquiry under Section 173[3] of the BNSS, 2023 was conducted to ascertain whether any prima facie case existed for proceeding further in the matter. Upon completion of the preliminary enquiry, the Enquiry Officer reported that no material evidence was found to be established regarding existence of a prima facie case warranting registration of the FIR. Accordingly, no case was registered for investigation.

4.3. Mr. Goswami has also placed a copy of the Report of Preliminary Enquiry dated 10.08.2026 submitted by the Enquiry Officer under Section 173[3], BNSS.

5. In view of the above sequence of events, this Court is of the considered view that due to non-registration of the FIR dated 06.08.2026 resulting in the Preliminary Enquiry dated

10.08.2026 and the well settled position of law as enunciated by the decision of the Hon'ble Supreme Court in **Sujal Viswas Attavar and another vs. State Maharashtra and others, [2026] 5 SCR 273**, the petitioner has the statutory remedy under Section 173[4] read with Section 175[3], BNSS to file a complaint before the jurisdictional Magistrate. Therefore, this writ petition, in view of the above obtaining fact situation, is not entertained, reserving the liberty to the petitioner to appropriate remedy available under the law.

6. The copy of the Preliminary Enquiry Report dated 10.08.2026 is kept with the case records.

JUDGE

Comparing Assistant