GAHC010226602026

2026:GAU-AS:15828

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

Case No. : WP(C)/5811/2026

ABDUL HASIM
SON OF ABDUL RAHMAN RESIDENT OF VILLAGE CHENGA
MUSALMANPARA, P.S. TARABARI, DISTRICT- BARPETA, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, HOME DEPARTMENT, DISPUR ,GUWAHATI 06.

2:THE SUPERINTENDENT OF POLICE BARPETA
DISTRICT - BARPETA
ASSAM.

3:THE OFFICER-IN-CHARGE
TARABARI POLICE STATION
BAHARI
DISTRICT- BARPETA
ASSAM.

4:MINTU ALI
SON OF MAKBUl ALI
RESIDENTS OF VILLAGE CHENGA MUSALMANPARA
P.O. CHENGA
P.S. TARABARI
DISTRICT- BARPETA
ASSAM.

5:JITUMONI ALI
SON OF MAKBUl ALI
RESIDENTS OF VILLAGE CHENGA MUSALMANPARA
P.O. CHENGA

P.S. TARABARI
DISTRICT- BARPETA
ASSAM

Advocate for the Petitioner : MR. R ALI, MR H A AHMED,MR. MUSTAFA HUSSAIN,N PERVIN

Advocate for the Respondent : GA, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 15-10-2026

Heard Mr. M. Hussain, learned counsel for the petitioner; and Mr. S.S. Roy, learned Junior Government Advocate, Assam for the respondent nos. 1 – 3.

2. It is the case of the petitioner that he lodged a First Information Report [FIR] before the Officer In-Charge, Tarabari Police Station, District – Barpeta on 19.08.2026 alleging inter alia that on 19.08.2026, the accused no. 1, named in the FIR, abused the petitioner with obscene language while the petitioner was working at his paddy field near the house of the accused persons. When confronted by the petitioner, the accused persons, armed with deadly weapons, chased the petitioner and assaulted him. The petitioner had alleged in the FIR that the accused persons had dragged him to a muddy area and assaulted on various parts of his person by blows and lathi. The petitioner was also inflicted grievous injuries by dao. Finally, the petitioner could be rescued by the neighbourhood persons. The petitioner had also alleged in the FIR to the effect that while leaving, the accused persons had also snatched cash amount of Rs. 10,000/- from the petitioner.

3. When the Officer In-Charge, Tarabari Police Station did not register the FIR lodged by the petitioner before him on 19.08.2026 despite the FIR, according to the petitioner, disclosing commission of cognizable offences, the petitioner had approached the respondent no. 2 by submitting a Representation on 06.09.2026 under Section 173[4], Bharatiya Nagarik Suraksha Sanhita, 2023 [BNSS] in order to bring to notice the act of non-registration of the FIR by the Officer In-Charge, Tarabari Police Station. By the written Representation dated 06.09.2026, the petitioner sought registration of the FIR he had lodged before the Officer In-Charge, Tarabari Police Station on 19.08.2026. As neither the respondent no. 3 registered the FIR dated 19.08.2026 nor the respondent no. 2 had acted on the written Representation dated 06.09.2026, the petitioner is before this Court invoking the extra ordinary and discretionary jurisdiction of this Court under Article 226 of the Constitution seeking a direction to the respondent no. 2 and the respondent no. 3 to register the FIR dated 19.08.2026.

4. Having regard to the sequence of events, as narrated above, this Court is of the considered view that against such non-registration of the FIR dated 19.08.2026, the petitioner has the statutory remedy under Section 173[4] read with Section 175[3], BNSS to file a complaint before the jurisdictional Magistrate. The said position has been well settled by the decision of the Hon'ble Supreme Court in **Sujal Viswas Attavar and another vs. State of Maharashtra and others, [2026] 5 SCR 273.**

5. This writ petition, in view of the above obtaining fact situation, is not entertained, reserving the liberty to the petitioner to avail appropriate remedy

under the law.

JUDGE

Comparing Assistant