

GAHC010051882025



2025:GAU-AS:6617

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

Case No. : Crl.Pet./301/2025

HIRAMONI SAIKIA AND 5 ORS
W/O BASANTA BORA R/O 82, USHLAY APARTMENT, HATIGAON,
LAKHIMINAGAR, UNDER HATIGAON PS, KAMRUP(M), ASSAM.

2: MAHBUBUL HOQUE
S/O LT. IBRAHIM ALI
R/O GYAN KUIR
NIRIBILI PATH

GHORAMARA CHARIALI

BHETAPARA
GUWAHATI-781027
UNDER BASISTHA P.S.

KAMRUP (M)
ASSAM

3: BIJOY DUTTA
S/O KRISHNA DUTTA
R/OVILL-SARISHA P.S. KARIMGANJ
DIST. SRIBHUMI
ASSAM

4: IMDADUR RAHMAN
S/OLT. FAKAR UDDIN
R/O VILL-DIGHIRPAR
P.S. BADARPUR
DIST. SRIBHUMI
ASSAM

5: NUMAN AHMED
S/OLT. KHALILUR RAHMAN
R/O VILL-DORAIL

P.S. BADARPUR

DIST. SRIBHUMI

ASSAM

6: REZZAK ALI
S/O ABDUL KHALEK
R/O VILL-MAZARCHAR
P.S. ALUOATICHAR
DIST. BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M BORA, MR. V A CHOWDHURY,SAMRIDDHI
SAIKIA,MR. D K BAIDYA

Advocate for the Respondent : PP, ASSAM,

Linked Case : Crl.Pet./320/2025

HIRAMONI SAIKIA AND 5 ORS.
W/O BASANTA BORA R/O B2
USHLAY APARTMENT
HATIGAON
LAKHIMINAGAR
UNDER HATIGAON PS
KAMRUP(M)
ASSAM

2: MAHBUBUL HOQUE
S/O LT IBRAHIM ALI R/O GYAN KUTIR
NIRIBILI PATH
GHORAMARA CHARIALI
BHETAPARA
GUWAHATI-781027

UNDER BASISTHA PS
KAMRUP(M)
ASSAM

3: BIJOY DUTTA
S/O KRISHNA DUTTA R/O VILLAGE SARISHA
PS KARIMGANJ
DIST- SRIBHUMI
ASSAM

4: IMDADUR RAHMAN
S/O LT FAKAR UDDIN R/O VILLAGE DIGHIRPAR
PS BADARPUR
DIST- SRIBHUMI
ASSAM.

5: NUMAN AHMED
S/O LT KHALILUR RAHMAN R/O VILLAGE DORAIL
PS BADARPUR
DIST-SRIBHUMI
ASSAM

6: REZZAK ALI
S/O ABDUL KHALEK R/O VILLAGE MAZARCHAR
PS ALUOATICHAR
DIST BARPETA
ASSAM
VERSUS

THE STATE OF ASSAM
REP BY THE PP
ASSAM

Advocate for : MR. A M BORA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

Linked Case : Crl.Pet./318/2025

HIRAMONI SAIKIA AND 5 ORS.
W/O BASANTA BORA R/O B2
USHLAY APARTMENT
HATIGAON
LAKHIMINAGAR

UNDER HATIGAON PS
KAMRUP(M)
ASSAM

2: MAHBUBUL HOQUE
S/O LT IBRAHIM ALI R/O GYAN KUTIR
NIRIBILI PATH
GHORAMARA CHARIALI
BHETAPARA
GUWAHATI-781027
UNDER BASISTHA PS
KAMRUP(M)
ASSAM.

3: BIJOY DUTTA
S/O KRISHNA DUTTA R/O VILLAGE SARISHA
PS KARIMGANJ
DIST- SRIBHUMI
ASSAM.

4: IMDADUR RAHMAN
S/O LT FAKAR UDDIN R/O VILLAGE DIGHIRPAR
PS BADARPUR
DIST- SRIBHUMI
ASSAM.

5: NUMAN AHMED
S/O LT KHALILUR RAHMAN R/O VILLAGE DORAIL
PS BADARPUR
DIST- SRIBHUMI
ASSAM.

6: REZZAK ALI
S/O ABDUL KHALEK R/O VILLAGE MAZARCHAR
PS ALUOATICHAR
DIST BARPETA
ASSAM.
VERSUS

THE STATE OF ASSAM
REP BY THE PP
ASSAM

Advocate for : MR. A M BORA
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM

:: PRESENT ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Petitioners : Mr. A.M. Bora,
Senior Advocate and
Mr. D.K. Baidya,
Advocate.

For the Respondent: Mr. K. Gogoi,
P.P., Assam.

Date of Hearing : 22.05.2025.

Date of Judgment : 26.05.2025.

JUDGMENT AND ORDER (CAV)

Heard Mr. A.M. Bora, the learned senior counsel assisted by Mr. D.K. Baidya, the counsel appearing for the petitioners. Also heard Mr. K. Gogoi, the learned Public Prosecutor, Assam.

2. On 21.02.2025, Inspector of Police Someswar Konwar lodged an FIR alleging that on 21.02.2025, 274 students appeared in the Physics Examination of 12 Standard CBSE Examination at Central Public School (hereinafter referred to as the CPS), Patharkandi. The CPS is run by Guwahati based organisation called ERD Foundation, which is actually run by another institution called USTM, though situated at Meghalaya, it is adjacent to Guwahati city.

3. Out of the aforesaid 274 students, 15 of them were from Adarsha Bidyalaya, Patharkandi and 45 of them were students of CPS, Patharkandi.

4. It is alleged in the FIR that the remaining 214 students, though enrolled in CPS, they never attended any class there, rather they were attending classes at USTM under the programme called "Vision 50".

- 5.** Those 214 students were promised by the USTM authorities that while they will be writing papers, in their 12 Standard CBSE examination, they will be assisted by the Invigilators so that they could easily pass the examination. But the Invigilators actually did not assist those students at the time of writing papers in the examination.
- 6.** It is also alleged that those students felt aggrieved by the conduct of the Invigilators and brought a new allegations against the Invigilators that they actually helped 45 students of CPS by allowing them to adopt unfair means to clear their papers. Some of the so-called aggrieved students also alleged that the USTM authority received an amount of ₹5 lakh from each of them on a promise that they will be allowed to clear the Class-XII Standard Examination.
- 7.** In the said FIR, the Vice-Chancellor of USTM was named as the principal accused. FIR also named 5 other persons, who worked at USTM. On the basis of this FIR, police registered the Patharkandi P.S. Case No.54/2025.
- 8.** On 24.02.2025, another FIR was lodged by the General Secretary of a Students Organization at Kokrajhar. In the said FIR, it is stated that USTM authorities trafficked students from various districts from Assam to Sribhumi for allowing them to sit in the examination. The students were allegedly promised by the USTM authority that it will help them to adopt unfair means in the examination for getting higher marks in their papers.
- 9.** According to the informant, those students who were taken to Sribhumi, they never studied at CPS, Patharkandi. The informant alleges that the USTM authorities promised them that they will clear JEE/NEET examination for getting admission in Medical and Engineering Colleges.
- 10.** As in the FIR dated 21.02.2025, the same set of persons were shown as accused in this FIR. On the basis of this FIR, police registered the Kokrajhar P.S. Case No.61/2025.
- 11.** Thereafter, on 25.02.2025, Lilawati Basumatary of Gossaigaon lodged FIR stating

that her daughter Kripanjulee Basumatary was a student of "Vision 50" project of USTM. At the time of Class-XII Examination, her daughter was taken to Patharkandi for sitting in the Class-XII Standard Examination at CPS at Patharkandi. Lilawati Basumatary has further alleged that on 21.02.2025, the same set of accused as shown in the initial FIR dated 21.02.2025, had colluded with CBSE officials and promised the students that they will be helped to adopt unfair means in the examination for getting higher marks in the examination. All the students of "Vision 50" programme were promised that they will be helped to clear JEE/NEET examination conducted by NTA for getting seats in the Medical as well as Engineering Colleges. Lilawati Basumatary has further alleged that everything was done on a *quid pro quo* basis. According to her, USTM authorities took money for materializing their promises.

12. The names of 6 persons as mentioned in the FIR dated 21.02.2025, are also named as accused in the FIR lodged by Lilawati Basumatary. Police registered this FIR as Gossaigaon P.S. Case No.31/2025.

13. By filing these three applications, under Section 528 of the BNSS, 2023, the petitioners (who are shown as accuseds in the aforesaid 3 FIRs) have prayed for quashing the FIRs and in alternative they prayed that the Kokrajhar P.S. Case No.61/2025 and Gossaigaon P.S. Case No.31/2025 should be merged with Patharkandi P.S. Case No.54/2025. The reason for this alternative prayer is that the allegations brought in the Patharkandi P.S. Case No.54/2025 are the same as in Kokrajhar P.S. Case No.61/2025 and Gossaigaon P.S. Case No.31/2025.

14. The petitioners have pressed the alternative prayer more vigorously than the other prayer for quashing of the proceedings. The learned counsel Mr. Bora has submitted that in all the 3 FIRs the allegations brought against the petitioners are materially same. According to Mr. Bora, compelling the petitioners to travel from Patharkandi to Kokrajhar and Gossaigaon would be an injustice because they will be compelled to travel to distant places for the same allegation. The learned counsel Mr.

Bora has submitted that the Kokrajhar P.S. Case No.61/2025 and Gossaigaon P.S. Case No.31/2025 are to be merged with Patharkandi P.S. Case No.54/2025.

15. The learned counsel Mr. A.M. Bora further submits that the FIRs in Kokrajhar P.S. Case No.61/2025 and Gossaigaon P.S. Case No.31/2025 are the subsequent FIRs upon the same allegation as in Patharkandi P.S. Case No.54/2025. The learned counsel has submitted that the subsequent FIRs are barred by law under Section 162 of the CrPC.

16. In order to buttress his point, Mr. Bora has relied upon the judgment of the Supreme Court that was delivered in State of *Rajasthan v. Surendra Singh Rathore*, reported in *2025 SCC OnLine 358*. Paragraph 9 of the said judgment is quoted as under:

“**9.** From the above conspectus of judgments, *inter alia*, the following principles emerge regarding the permissibility of the registration of a second FIR:

9.1 When the second FIR is counter-complaint or presents a rival version of a set of facts, in reference to which an earlier FIR already stands registered.

9.2 When the ambit of the two FIRs is different even though they may arise from the same set of circumstances.

9.3 When investigation and/or other avenues reveal the earlier FIR or set of facts to be part of a larger conspiracy.

9.4 When investigation and/or persons related to the incident bring to the light hitherto unknown facts or circumstances.

9.5 Where the incident is separate; offences are similar or different.”

17. The learned Public Prosecutor Mr. Gogoi has submitted that the ambit of the 3 FIRs is different though they might have arisen from the same set of circumstances. Therefore, Mr. Gogoi has submitted that the subsequent Kokrajhar P.S. Case No.61/2025 and Gossaigaon P.S. Case No.31/2025 need not be merged with Patharkandi P.S. Case No.54/2025.

18. Mr. Bora has relied upon another judgment of the Hon'ble Supreme Court that was delivered in *Babubhai v. State of Gujarat & Ors.*, reported in (2010) 12 SCC 254. Paragraph 14 of the said judgment is quoted as under:

“**14.** In *T.T. Antony v. State of Kerala* [(2001) 6 SCC 181 : 2001 SCC (Cri) 1048] this Court dealt with a case wherein in respect of the same cognizable offence and same occurrence two FIRs had been lodged and the Court held that : (SCC p. 181*d-e*)

“There can be no second FIR and no fresh investigation on receipt of every subsequent information in respect of the *same cognizable offence or same occurrence giving rise to one or more cognizable offences.*”

(emphasis supplied)

The investigating agency has to proceed only on the information about commission of a cognizable offence which is first entered in the police station diary by the officer-in-charge under Section 158 of the Code of Criminal Procedure, 1973 (hereinafter called “CrPC”) and all other subsequent information would be covered by Section 162 CrPC for the reason that it is the duty of the investigating officer not merely to investigate the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and the investigating officer has to file one or more reports under Section 173 CrPC. Even after submission of the report under Section 173(2) CrPC, if the investigating officer comes across any further information pertaining to the same incident, he can make further investigation, but it is desirable that he must take the leave of the court and forward the further evidence, if any, with further report or reports under Section 173(8) CrPC. In case the officer receives more than one piece of information in respect of the same incident involving one or more than one cognizable offences such information cannot properly be treated as an FIR as it would, in effect, be a second FIR and the same is not in conformity with the scheme of CrPC.”

19. I have given my anxious considerations to the submissions made by the learned counsel of both sides.

20. In *T.T. Antony v. State of Kerala*, (2001) 6 SCC 181, the Supreme Court has held as under:

“**27.** A just balance between the fundamental rights of the citizens under Articles 19 and 21 of the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. There cannot be any controversy that sub-section (8) of Section 173 CrPC empowers the police to make further investigation, obtain further evidence (both oral and documentary) and forward a further report or reports to the Magistrate. In *Narang case* [(1979) 2 SCC 322 : 1979 SCC (Cri) 479] it was, however, observed that it would be appropriate to conduct further investigation with the permission of the court. However, the sweeping power of investigation does

not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under Section 173(2) CrPC. It would clearly be beyond the purview of Sections 154 and 156 CrPC, nay, a case of abuse of the statutory power of investigation in a given case. In our view a case of fresh investigation based on the second or successive FIRs, not being a counter-case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 CrPC or under Articles 226/227 of the Constitution.”

21. It has been held by the Hon’ble Supreme Court that in a case of fresh investigation based on the second or successive FIRs, not being a counter case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is underway or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercising the power under Section 482 of the CrPC or under Article 226/227 of the Constitution of India.

22. In *Arnab Ranjan Goswami v. Union of India*, (2020) 14 SCC 12, as many as 14 FIRs were lodged against the said petitioner in 14 different places across the country. In view of the ratio laid down in *T.T. Antony* (supra), the Hon’ble Supreme Court quashed the subsequent FIRs because the allegations brought against the petitioner in the said FIRs were materially same.

23. So, the legal position is very clear. The FIRs in Kokrajhar P.S. Case No.61/2025 and Gossaigaon P.S. Case No.31/2025 are exactly the same as in Patharkandi P.S. Case No.54/2025. Therefore, separate investigation in these 3 cases or other cases where the allegations are exactly same as in the aforesaid 3 cases would be against the tenets of natural justice. Moreover, the cause of action for those three cases arose within the jurisdiction of Patharkandi Police Station.

24. For the aforesaid reasons, this Court is of the opinion that Kokrajhar P.S. Case No.61/2025 and Gossaigaon P.S. Case No.31/2025 should be merged with Patharkandi P.S. Case No.54/2025.

25. Accordingly, it is hereby directed that Kokrajhar P.S. Case No.61/2025 and Gossaigaon P.S. Case No.31/2025 shall be merged with Patharkandi P.S. Case No.54/2025. The Patharkandi Police Station shall investigate the subsequent cases being Kokrajhar P.S. Case No.61/2025 and Gossaigaon P.S. Case No.31/2025.

With the aforesaid directions, all the 3 criminal petitions are disposed of.

JUDGE

Comparing Assistant