

GAHC040016342024



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

Linked Case : **Crl.Petn./202/2024**

Eraxon Tajom  
Age: 49  
Occupation :  
Address: Son of Late Mugi Tajom  
Village Gemo Tali  
PO and PS Kamba  
West Siang District  
Arunachal Pradesh.

VERSUS

The State of AP and Anr  
Age: 0  
Occupation :  
Address: represented by the PP of AP  
2: Nyamar Rike  
Age: 0  
Occupation :  
Address: Son of Late Jumnya Rike  
resident of Yoji Yora  
Aalo  
PO and PS Aalo  
West Siang District  
Arunachal Pradesh and serving as Executive Engineer  
RWD  
and currently posted at Changlang Division  
Changlang District  
Arunachal Pradesh.

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Advocate for : Nikita Danggen  
Advocate for : P P of AP appearing for The State of AP and Anr: Advocate , appearing  
for 2, respectively.

**B E F O R E**

**HON'BLE MRS. JUSTICE SHAMIMA JAHAN**

**JUDGMENT & ORDER (ORAL)**

30.06.2025

**1.** Heard Ms. N Danggeng, learned counsel for the petitioner as well as Mr. T Ete, learned Addl. Public Prosecutor as well as Mr. K Lollen appearing for respondent No. 2. This petition is filed under Section 528 of the BNSS 2023 by which the petitioner has prayed for quashing of the First Information Report, being FIR No. 60/2024 registered under Section 61(2)/131/308(2)/127(8)/351(2)/3(5) of BNS, 2023.

**2.** The prosecution case is unfolded by the FIR dated 28.09.2024 lodged by the informant namely; Nyamar Rike, the E.E, RWD, Changlang Division wherein it was stated that on 28<sup>th</sup> August, 2024, he came for some domestic works at Aalo and that the petitioner's wife who was known to him called him to her rented house but he could not visit as he was busy and that again on 31<sup>st</sup> August, 2024 the petitioner's wife reminded him and told him to visit and meet her at 12 O'clock midnight, to which he stated he cannot and that the petitioner's wife as such called him at 10:30 pm from a bar and told him to

come at 11:30 pm. He thereafter stated that he reached the petitioner's rented room at around 11:30 pm and since he had never visited the petitioner's room and did not know the exact place, the petitioner's wife came to the balcony and signaled him with torch flash light and took him to her room. He further stated that when the petitioner's wife told him to remove his clothes and the petitioner's wife was having her shower, the petitioner entered the room with his friend and assaulted him, made him naked, videographed him and snatched his clothes, his mobile phone and vehicle keys. He also stated that the petitioner and his wife wrongfully confined him and forced him to write an illegal agreement on a Court paper, stating therein that the informant had forcefully entered into their rented room to have illicit relationship with the petitioner's wife and that he has confessed his guilt and that he will pay Rs. 30 lakhs and made him sign the said agreement. He thereafter stated that on 2<sup>nd</sup> September, 2024 i.e. two days later, the petitioner and his wife threatened and forced him to pay the said Rs. 30 lakhs or else they would lodge an FIR. He as such stated that the petitioner and his wife had conspired to extort money from him and that he paid the said Rs. 30 lakhs. The police on receipt of the said FIR registered the case as Aalo PS Case No. 60/2024 under Section 61(2) / 131/308(2)/127(8)/351(2)/3(5) of BNS, 2023. It is this FIR that the petitioner has prayed for quashing of the same.

**3.** Ms. N Dangeng learned counsel appearing for the petitioner submits before this Court that the facts narrated in the said FIR was not wholly correct in view of the fact that it was not the petitioner's wife who had called the victim to her place but it was the victim who enticed her into getting in the illicit relationship. To substantiate the said argument, Ms. N Danggen referred to the whatsapp messages between the petitioner's wife and the victim which was enclosed as Annexure-2. She also had placed the so-called agreement entered on a stamp paper wherein the victim states that he has voluntarily offered Rs. 30 lakhs for forcefully committing illicit sexual relation with the petitioner's wife. The counsel for the petitioner had also placed that the informant had accepted and admitted his guilt as he himself wrote in the said agreement. She had also placed the deposit slip dated 02.09.2024 showing the amount of Rs. 30 lakhs being credited to the petitioner. She had also stated that there was delay in lodging of the FIR since the incident was on 31<sup>st</sup> August, 2024 and the FIR was lodged on 28<sup>th</sup> September, 2024 and although the reason given was that the parties tried to settle, the same is not sustainable in the fact of the case. As such, she had prayed that the FIR be quashed. To substantiate her arguments, she placed reliance on the following decisions:-

*1. State of Haryana vs. Bhajan Lal, reported in (1992) Suppl. 1 SCC*

335.

*2. Iqbal & Ors. vs. State of UP, repored in (2023) 8 SCC 734.*

*3. Rajiv Thapar vs. Mahan Lal Kapoor, reported in (2013) 3 SCC 330.*

*4. Karnataka Emta Coal mines vs. CBI, reported in 2024 SCC OnLine SC 2250.*

**4.** On the other hand, Mr. T Ete, learned APP submitted before this Court that when an FIR discloses commission of a cognizable offence, the same may not be quashed as has been held by the Apex Court time and again. He stated that a bare perusal of the FIR demonstrates that the victim was forced to write an illegal agreement and was forced to pay an amount of Rs. 30 lakhs which he paid as per the records of the case. He submitted that the petitioner could not place any materials to show that the allegations made in the FIR were absurd or inherently improbable and as such, he prayed that the petitioner has not made out a case for quashing. To substantiate his arguments, he placed reliance on the following decisions:

*1. B.N John vs. State of UP, reported in 2025 SCC OnLine SC 7.*

*2. Rajiv Thapar vs. Madan Lal Kapoor (supra).*

*3. Supriya Jain vs. State of Haryana, reported in 2023 SCC OnLine SC 765.*

*4. Smt. Nguyum Taipodia vs. State of Arunchal Pradesh (Crl. P. No. 79/2024.*

**5.** Mr. K Lollen, learned counsel appearing for respondent No. 2 stated that a clear cognizable case was made out in the FIR and as such, quashment of the same does not arise. He stated that the informant was trapped and an amount of Rs. 30 lakhs was extorted from him by the petitioner and his wife.

**6.** I have heard the counsels appearing for all the parties and have perused the records.

**7.** It is a settled proposition of law that the FIR can be quashed on the following conditions, which are again not exhaustive but illustrative:

*1. When the allegations in the FIR do not prima facie make out a case or do not disclose a cognizable offence.*

*2. When the uncontroverted allegations in the FIR and the evidence collected in support thereof do not disclose any case.*

*3. When the allegations are absurd and inherently improbable and*

*the prudent person cannot believe that the offence is committed.*

*4. When there is an express bar to the institution of the case.*

*5. When the FIR shows that a case is instituted for wreaking vengeance.*

**8.** In the instant case, it is noticed from the contents of the FIR that the petitioner's wife and the victim were found together in a room, in a compromising position and that the victim was forced to execute an illegal agreement wherein he was made to confess his guilt and to pay Rs. 30 lakhs. It is noticed that two days later the victim paid Rs. 30 lakhs to the petitioner. The petitioner did not claim that the incident had not taken place at all. Rather, the petitioner stated that the informant sought for forgiveness for the incident and voluntarily offered to pay a penalty of Rs. 30 lakhs and that he wrote an undertaking to that effect. It is as such noticed that offence had taken place and money was exchanged between the parties.

**9.** Further, the petitioner has annexed one FIR lodged by the petitioner against the victim wherein, the petitioner stated that it was he who had given the stamp paper where the victim was forced to give the undertaking. This is unusual and bizarre that had the petitioner been innocent he would not have

given the stamp paper to the victim to give the so-called undertaking. Further, the person who is stated to have accompanied the petitioner had stated before the police about the occurrence on the said date and he had also stated that it was the petitioner who had given the non-judicial stamp paper to the victim wherein, the victim wrote that he will pay the amount of Rs. 30 lakhs. The deposit slip dated 02.09.2024 by which, Rs. 30 lakhs was credited to the petitioner also substantiate the fact that the money was in fact paid.

**10.** Therefore, it cannot be said that no cognizable case has been made out in the FIR. Rather, the ingredients of criminal conspiracy, criminal force, extortion, confinement for the purpose of extortion as well as criminal intimidation with common intention is writ large in the FIR dated 28.09.2024. As such, this Court is constrained not to set aside or quash the FIR in question.

**11.** The petition is dismissed. No order to costs.

**JUDGE**

**Comparing Assistant**