

GAHC010129262025



2025:GAU-AS:8596

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

**Case No. : Tr.P.(Crl.)/27/2025**

MAHINDRA AND MAHINDRA FINANCIAL SERVICES LTD  
HAVING ITS REGISTERED OFFICE AT GATEWAY BUILDING, APOLLO  
BUNDER, MUMBAI, -400001 AND CORPORATE OFFICE AT 2ND FLOOR,  
AGASTYA CORPORATE PARK, OPPOSITE FIRE BRIGADE STATION, KAMINI  
JUNCTION, LBS MAIN ROAD, KURLA WEST, MUMBAI, MAHRASHTRA  
-400070, REPRESENTED BY BAIKUNTHA NATH, SENIOR EXECUTIVE,  
LEGAL RESOLUTION CELL.

VERSUS

THE STATE OF MIZORAM  
REPRESENTED BY SECRETARY, DEPARTMENT OF HOME AIZAWL.

**Advocate for the Petitioner** : MR M GOSWAMI, MS S PATOWARY, MR R SINGHA

**Advocate for the Respondent** : GA, MIZORAM,

**BEFORE  
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

Date of hearing : 18.06.2025

Date of Judgment and Order : 25.06.2025

Heard Mr. M. Goswami, learned Senior Counsel assisted by Mr. R. Singha, learned counsel for the petitioner. Also heard Mr. B. Deb, learned Advocate General, State of Mizoram, assisted by Ms. P. Bhattacharjee, learned Additional Advocate General for the respondent/State of Mizoram.

**2.** The present application has been filed under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking transfer of criminal proceedings arising out of (i) FIR No. 96 of 2024, registered under Sections 408/467/468/34 of the Indian Penal Code, 1860 at Aizawl Police Station, Aizawl, Mizoram; and (ii) FIR No. 03 of 2024, registered under Sections 408/419/466/467/ 472/471/477A/120B/34 of the Indian Penal Code at Crime & Economic Offences Police Station, Aizawl, Mizoram, from the Courts in Aizawl, Mizoram to the corresponding Courts in Guwahati, Assam.

**3.** The brief facts of the case, as projected by the petitioner, is that the petitioner is a Non-Banking Financial Company registered under the Companies Act, 1956, engaged in the business of providing vehicle loans, with pan-India operations including in Mizoram where it has provided vehicle loans to over 23,000 beneficiaries. It is represented by its authorized representative, Mr. Baikuntha Nath, duly authorized through a board resolution dated 26.10.2020 and a power of attorney dated 04.01.2024. It is the case of the petitioner that during an internal audit, it has been came to the light of the petitioner that a large scale financial fraud to the extent of over Rs. 150 crores has been allegedly perpetrated to it by its own employees in connivance with certain automobile dealers and other individuals by way of sanctioning loans on the basis of fictitious customer profiles and forged documents. Accordingly, on the basis of a complaint lodged by one Mr. Ankit Bagree, Circle Head

of Mahindra & Mahindra Financial Services (in short, 'MMFSL'), who is now no more associated with the company, an FIR bearing No. 96/2024 was registered at Aizawl Police Station under Sections 408/467/468/34 of the Indian Penal Code. Thereafter, on the basis of the investigation, it revealed that an employee of the petitioner company, namely, one Jakir Hussain, along with certain other co-accused persons, opened fictitious bank account in the name of "Mahindra Finance Limited" at Mizoram Rural Bank through which approximately Rs. 80 crores were routed. Accordingly, on being come to know about this new facts, another FIR was lodged by one Mr. Charanpreet Singh, MMFSL's country business head, which was registered as FIR No. 03/2024, under Sections 408/419/466/467/472/471/477A/120B /34 of the Indian Penal Code at Crime & Economic Offences Police Station, Aizawl. Thereafter, due to the complexity and magnitude of the matter, a Special Investigation Team (in short, 'SIT') was constituted to investigate the matter.

**4.** During investigation, it revealed that a large-scale conspiracy was made for availing fake loans by creating fake customer profiles using fake and fabricated government documents. The said fake loans were applied for purchasing vehicles from certain automotive dealers. However, no vehicles were actually delivered and the funds were diverted to fake and benami accounts. Several dealers, including Aidu Motors, National Business Enterprises, C.K. Hyundai, and Standard Motors (Bajaj), have been named in the alleged scheme. It is further alleged that during investigation, certain accused persons were arrested but subsequently granted bail under questionable circumstances. In particular, one of the main accused, Mr. Paul Zothanpuia Johan, owner of National Business Enterprise, which is a dealer of Tata Cars, who was arrested by SIT on 15.05.2024, was granted bail by learned Chief Judicial Magistrate, Aizawl on 16.05.2024 despite being declared medically fit. The said order was later set aside by the learned District & Sessions Judge, Aizawl on 22.05.2024, directing fresh remand proceedings. However, the accused again secured anticipatory bail and avoided custody on alleged medical grounds, frustrating the SIT's

efforts to interrogate him.

**5.** The petitioner also alleges that there have been repeated delays, non-compliance with court orders, and failure of the accused, namely, Mr. Paul Zothanpuia Johan and Dr. Madhurjya Sarmah, to appear before the Court as directed. The petitioner also challenges various procedural irregularities in the handling of bail, including unnotified changes in hearing dates and remand proceedings by the Trial Courts at Aizawl. The petitioner also contends that the investigation has been compromised following reconstitution of the SIT and that the newly appointed officers have, without explanation, exonerated individuals previously identified as accused. Moreover, the charge-sheet in relation to C&EO PS FIR No. 03/2024 and Aizawl PS FIR No. 96/2024 was filed by the SIT on 26.06.2024 & 10.07.2024, respectively, stating that further investigation was underway in respect of certain accused persons, but the petitioner was not allowed to access the charge-sheets for nearly two months. Moreover, no cognizance has yet been taken by the Court in relation to charge-sheet filed in FIR No. 03/2024, though charges have been framed in FIR No. 96/2024.

**6.** The petitioner has also preferred SLP (Crl.) No. 13628/2024 before the Hon'ble Supreme Court seeking cancellation of bail granted to another accused, Dr. Madhurjya Sarmah, wherein notice has been issued. It is the petitioner's grievance that despite the gravity of the alleged offence, involving economic offences of public importance, the investigation and trial are being adversely affected due to local influences and procedural irregularities. The petitioner also contends that the earlier authorized representative of the petitioner/company, namely, Mr. Ankit Bagree, was changed to one Mr. Prakash Mishra as the said Mr. Ankit Bagree was also found to be party to the fraud perpetrated against the petitioner. It is further alleged that crucial electronic evidence, including a mobile phone and iPad seized from the main accused, Mr. Jakir Hussain, has been misplaced. During cross-examination, a seizure witness claimed to have mistaken the seized iPad for a MacBook, and did not confirm the seizure of any phone. A complaint has also been lodged by the petitioner before the Directorate of

Enforcement under the Prevention of Money Laundering Act, 2002, and that the PMLA proceedings are being investigated at Guwahati.

7. Thus, the petitioner contends that given the magnitude and sensitivity of the alleged fraud and the trial being hindered by local influences and procedural irregularities, the criminal proceedings arising out of FIR No. 96/2024 and FIR No. 03/2024, presently pending before Courts in Aizawl, Mizoram, be transferred to the Courts at Kamrup (Metro), Guwahati, Assam, including the Principal Seat of the Gauhati High Court, in the interest of justice and also to ensure a fair, impartial and effective adjudication.

8. Mr. Goswami, learned Senior Counsel for the petitioner has submitted that there is a reasonable apprehension that the petitioner may not receive proper justice in the learned Trial Courts of Aizawl, where the cases are presently pending for disposal. In this context, he relied on the decision rendered by the Hon'ble Supreme Court in **Gurcharan Dass Chadha vs. State of Rajasthan**, reported in 1965 SCC OnLine SC 341, and emphasized on paragraph 13 of the said judgment, which read as under:

"13. With regard to the Home Minister the petitioner has given five instances in which he apparently crossed the minister's path and gave him room for annoyance. In regard to the two Police Officers he has averred that the Deputy Inspector General of Police, Ajmer Range (Hanuman Prasad Sharma) and he had some differences on three occasions. He has also given similar instances of hostility towards him entertained by Sultan Singh, Deputy Inspector General of Police. On the basis of these he says that he entertains an apprehension that he will not receive justice in the State of Rajasthan. The law with regard to transfer of cases is well-settled. A case is transferred if there is a reasonable apprehension on the part of a party to a case that justice will not be done. A petitioner is not required to demonstrate that justice will inevitably fail. He is entitled to a transfer if he shows circumstances from which it can be inferred that he entertains an apprehension and that it is reasonable in the circumstances alleged. It is one of the principles of the administration of justice that justice should not only be done but it should be seen to be done. However, a mere allegation that there is apprehension that justice will not be done in a

given case does not office. The Court has further to see whether the apprehension is reasonable or not. To judge of the reasonableness of the apprehension the State of the mind of the person who entertains the apprehension is no doubt relevant but that is not all. The apprehension must not only be entertained but must appear to the Court to be a reasonable apprehension."

**9.** He further submitted that, besides requesting a transfer of the case from the Aizawl, Trial Courts to any Court in Assam or Kamrup (M), Guwahati, the petitioner alternatively prayed for monitoring the proceedings before the Trial Courts and to be supervised by the Principal Seat of the Gauhati High Court, with quarterly or periodic reports submitted to the Principal Seat.

**10.** In this regard, Mr. Deb, learned Advocate General, submitted that the Gauhati High Court has a Permanent Bench at Aizawl, and hence, if any transfer was required in connection with this case, the matter could have been brought before the Aizawl Bench. There is no justification for approaching the Principal Seat for transfer of the case when the Permanent Bench at Aizawl, functioning under the Gauhati High Court, is already available. Accordingly, he submitted that the transfer petition is not maintainable in its present form. He further submitted that the first complaint was filed on 20.03.2024, and on the same day, the case was registered and the Investigating Officer commenced the investigation. Subsequently, a SIT was constituted to investigate the matter, and 24 persons were arrested in connection with the following FIRs:

1. FIR No. 96 of 2024, registered under Sections 408/467/468/34 of IPC; and
2. FIR No. 03 of 2024, registered under Sections 408/ 419/ 466/ 467/472/471/477A/120B/34 of IPC.

**11.** Both cases have already been charge-sheeted. The first FIR is presently at the stage of consideration of charge, and trial has already commenced in the second FIR. In that trial, the prosecution has listed 73 witnesses, and an additional 41 witnesses

have been listed in the supplementary charge sheet. Similarly, in FIR No. 03/2024, 66 witnesses have been listed, along with 38 more in the supplementary charge sheet. A total of 24 accused persons have already been charge-sheeted, and at present they are behind the custody for over six months or even a year. The prime accused, Mr. Jakir Hussain, was arrested on 13.04.2024 and remains in judicial custody.

**12.** Mr. Deb further submitted that, during the investigation, the I.O seized 100 vehicles in connection with these cases. Thus, the investigation in both matters has been completed, the trial has commenced in one case, and the other is fixed for consideration of charge, with a subsequent date scheduled for the commencement of trial. He also submitted that most of the witnesses are residents of the State of Mizoram, and therefore, requiring them to travel from Aizawl to depose before any court in Kamrup (M) or elsewhere in Assam would cause considerable hardship. It would likewise be difficult for the prosecution to transport all material exhibits and documents from Aizawl to Assam for production in Court. Additionally, as some of the accused persons are still in custody, the prosecution would face challenges in producing them before a Court outside Mizoram, given that they are lodged in the Aizawl Jail.

**13.** With regard to the issue raised by the learned counsel for the petitioner concerning the summoning of Mr. Ankit Bagree as a prosecution witness, Mr. Deb, learned A. G. has submitted that Mr. Ankit Bagree is the one who conducted the initial inquiry and lodged the first complaint, on the basis of which the cases were registered and investigated. Therefore, it is the duty of the prosecution to summon him as a witness. Hence, no illegality has been committed in summoning Mr. Ankit Bagree as a prosecution witness. He also submitted that transferring both cases to any Court in Assam or Kamrup (M) from Aizawl would result in a miscarriage of justice, and he therefore prayed for dismissal of the transfer petition.

**14.** On the other hand, Mr. Goswami, learned counsel for the petitioner, submitted

that the convenience of the accused and the witnesses cannot be placed on a higher pedestal than the need to ensure that substantial justice is done. He argued that it is the apprehension of the complainant/victim regarding the possibility of getting a fair trial or justice in the Courts at Aizawl, where the cases are presently pending for disposal.

**15.** Considering the submissions made by the learned counsels for both sides, I have perused the case records and the annexures filed along with the petition. It is an admitted position that, based on two complaints, one filed by Mr. Ankit Bagree and another by a representative of the company, two separate cases were registered at Aizawl Police Station and Crime & Economic Offences Police Station, Aizawl, respectively. A Special Investigation Team (SIT) was constituted, and accordingly, the matters were investigated and charge sheets were filed in both cases. It is alleged by the petitioner that the investigation was not conducted fairly and that the prosecution did not take sufficient initiative during the trial to ensure justice for the informant/complainant. It is further alleged that the prosecution recorded evidence in a casual manner. However, from the discussions above, it is evident that in both cases, the IO has listed a considerable number of witnesses in the original and supplementary charge sheets. As the cases have already been investigated by the newly constituted SIT, there appears to be no reason to interfere with the investigation at this stage, particularly since both matters have already been charge-sheeted. If the apprehension is that the petitioner may not get proper justice in the Courts of Aizawl (i.e., in the Courts of the learned Chief Judicial Magistrate and District & Sessions Judge, where the cases are currently pending), the petitioner could have approached the Gauhati High Court, Aizawl Bench at Aizawl to seek transfer of the cases to any other District Court within the State of Mizoram.

**16.** It also cannot be denied that both the witnesses and the accused would face considerable difficulty in attending Court proceedings in the State of Assam, particularly in Kamrup (M), as most of them are residents of Aizawl. Moreover, some of



the accused are still in custody, and the prosecution would face challenges in producing them before a court located outside Mizoram, such as in Guwahati or any other District in Assam. Further, since both cases have already been charge-sheeted, the possibility of tampering with evidence or influencing witnesses at this stage is minimal. It is also observed that a sufficient number of witnesses have been listed by the IO to prove the case. Therefore, there appears to be no compelling reason to transfer the cases from Aizawl to Assam or to any other District in Assam. However, as stated above, the petitioner may approach the Gauhati High Court, Aizawl Bench at Aizawl to seek transfer of the cases from the Courts of the learned Chief Judicial Magistrate, Aizawl and learned District & Sessions Judge, Aizawl to any other Courts within Mizoram for the purpose of ensuring a proper and fair trial in the interest of justice.

**17.** In both matters, it is also noted that the IO completed the investigation within a reasonable period upon receiving two complaints involving allegations of embezzlement of more than Rs. 1.5 crore, an SIT was constituted, and the investigation was conducted by the said SIT, leading to the filing of charge sheets. As alternatively prayed for, the petitioner may approach the Gauhati High Court, Aizawl Bench at Aizawl with a prayer for supervising the trial in both matters pending before the learned Chief Judicial Magistrate, Aizawl and learned District & Sessions Judge, Aizawl.

**18.** In the present circumstances, this Court is of the opinion that this is not a fit case for transferring the matters from the State of Mizoram to the State of Assam or Kamrup (M) for disposal. Accordingly, the transfer petition stands dismissed.

**19.** With the above observations, this transfer petition stands disposed of.

**JUDGE**

**Comparing Assistant**