



GAHC010151292025

Page No.# 1/5

2026:GAU-AS:1276



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

Case No. : Crl.Pet./812/2025

SAPIYEL HOQUE ALIAS SAPIAL HOQUE
S/O- SOYDUR RAHMAN,
VILL- GARAMARI,P.O- RADHAMADHAB JAT,
P.S- MANKACHAR, DIST- SOUTH SALMARA MANKACHAR, PIN-783131,
ASSAM

2: SOHANA PARBIN ALIAS SUHANA PARBIN
W/O- SOPIYEL HOQUE ALIAS SAPIAL HOQUE

VILL- GARAMARI
P.O- RADHAMADHAB JAT

P.S- MANKACHAR
DIST- SOUTH SALMARA MANKACHAR
PIN-783131

ASSA

VERSUS

THE STATE OF ASSAM
REP BY PP ASSAM

2:ARAFAT HUSSAIN
S/O- ISMAIL HUSSAIN

VILL- GARAMARI
P.O- RADHAMADHAB HAT

P.S- MANKACHAR
DIST- SOUTH SALMARA MANKACHAR
PIN-783131

ASSA



Advocate for the Petitioner : MR. M R KHANDAKAR,

Advocate for the Respondent : PP, ASSAM, MR ROBIUL HOQUE (R-2)

BEFORE
HONOURABLE MR. JUSTICE PRANJAL DAS

ORDER

02.02.2026

1. Heard Mr. M.R. Khandakar, learned counsel for the petitioner as well as Mr. R. Hoque, learned counsel for the informant. Also heard Mr. D.P Goswami, learned Additional Public Prosecutor for the State of Assam.
2. This application under Section 528 of BNSS, 2023 has been filed by the petitioner, namely, **Sapiyel Hoque @ Sapijal Hoque**, whereby he has prayed for quashing of the **Special(P) Case No.121/2024 (G.R No.110/2023)**, arising out of **Mankachar P.S Case No. 61/2023, registered under Sections 9/10/11 of Prohibition of Child Marriage Act, R/W Section 6/17 of POCSO Act, 2012**, which is pending before the learned Special Judge, South Salmara Mankachar.
3. An FIR was lodged by Arafat Hussain (then VDP Secretary) on 02.02.2023 alleging child marriage, whereupon the case was registered, investigated and charge-sheeted against the petitioners. Subsequently, the aforementioned special case was registered whereupon charges were also framed and case is stated to be at the



stage of evidence.

4. In the meantime, the alleged victim Sohana Parbin has sworn an affidavit in which she stated that when she was just below the age of 18 years, she had love affair with one Sapiyel Hoque @ Sapial Hoque, son of Saidur Rahman and married him. She further stated in paragraph 3 that she is now living peacefully with him as his wife and having one child. She has stated in paragraph 4 and 5 of the affidavit that if the proceeding continues, she and her child will suffer loss and that she has no objection to quashing of the said proceeding.

5. In support his contention, the learned counsel for the petitioner has relied upon two decisions of this Court in *Crl. Pet. No.13/2025 [Foridul Islam and Anr. Vs. The State of Assam and Anr.]* and *Crl.Pet. No.1007/2025 [Romiz Ali @ Romez Ali and Anr. Vs. The State of Assam and Anr.]*, where proceedings were quashed in similar circumstances.

6. Mr. R. Hoque, learned counsel for the informant submits that he has no objection to quashing of the proceeding and that he also supports the affidavit made by the alleged victim girl, who is now wife of the petitioner no.1. The victim herself has joined as petitioner no.2 in this proceeding.

7. The law regarding quashing of criminal proceeding pursuant to settlement between the parties has crystallized through a catena of decisions rendered by the Hon'ble Supreme Court. However, as per the governing law, certain categories are excluded



which includes heinous offence having great societal impact.

8. In the instant case, the provision of Child Marriage Act has been given and the said law has been enacted to criminalize the social evil of marrying of girls before attaining their majority. In the instant case, because of alleged minority of the girl at the time of the alleged incident, provision of POCSO has also been given which undoubtedly falls in the domain of serious offences.

9. However, the objective reality that has emerged in the facts and circumstances of the instant case, also cannot be overlooked. The parties are married, living a peaceful conjugal life and they also have a minor child. In the said situation, allowing the trial to proceed might be an exercise in futility. Even otherwise, such a continuing prosecution could be detrimental to the interest of the child and the victim girl herself in the objective situation.

10. Therefore, in the peculiar facts and circumstances, despite the provisions of Child Marriage and POCSO, it would be justified to exercise the power under Section 528 BNSS to allow the prayer of the petitioner, who are interestingly both the accused and the victim jointly praying to quash the proceeding.

11. Consequently, allowing this criminal petition, the entire proceeding of - *Special(P) Case No.121/2024 (G.R No.110/2023)*, pending before the learned Special Judge, South Salmara Mankachar arising out of *Mankachar P.S Case No. 61/2023, registered under Sections 9/10/11 of Prohibition of Child Marriage Act, R/W Section 6/17 of POCSO Act, 2012* shall stand **quashed**.



12. Accordingly, the criminal petition stands **allowed** and **disposed of** on the aforesaid terms.

JUDGE

Comparing Assistant