

GAHC020004082025

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

Case No. : Crl. Pet./21/2025

ATUL BOKRIYA AND 5 ORS
R/O H-341, NEW RAJINDER, NEW DELHI-110060

2: MAHINDRA BOKRIYA
R/O H-341
NEW RAJINDER
NEW DELHI-110060

3: AVINASH CHORDIA
R/O H-341
2ND FLOOR
NEAR SATSANG BHAWAN
NEW RAJINDER
NEW DELHI-110060

4: ARVINDER PAL SINGH
R/O B-291 1ST FLOOR
LOK VIHAR
PITAMPURA DELHI-110034

5: RAMAN ANAND
R/O SECTOR-9
ROHINI
NEW DELHI-110085

6: RAHUL MISHRILAL BOTHARA
R/O H.NO. 4/12
RUNWAL PARK
NEAR MARKET YARD BUS STOP
MARKEY YARD PUNE-41103

VERSUS

STATE OF NAGALAND
NAGALAND KOHIMA

Advocate for the Petitioner : MOA JAMIR, CATHERINE ANICHAR,IMTI LONGJEM,RISHABH JAIN,K SHIJOH,GRACE I NAMGI,IMTI CHANG,ROSEMARY KIKON,SHISA JAMIR,T.METSIEO,THEJANUO METHA,R MERE,M SOLO,Y HUMTSOE,M JEMU

Advocate for the Respondent : , PETER RANA,TEKALONG,IMKONG JAMIR,TAPAN RANJAN DEURI,MEDO VERO,CHUBANUNGKUM,PFOSEKHO PFOTTE

Date of hearing : 23.02.2026

Date of judgment : 02.03.2026

Whether the pronouncement is of the Operative part of the judgment ? : No

Whether full judgment has been pronounced ? : Yes

BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

:JUDGMENT & ORDER (CAV):

Date : 02-03-2026

Heard the learned counsel for the petitioners Mr. Imti Longjem and Mr. Tapan Ranjan Deuri, learned counsel for the State respondents.

2. The instant petition under section 528 of the BNSS, 2023 read with Article 227 of the Constitution of India has been filed by the petitioners praying for quashing of the FIR and the consequential criminal proceedings against the petitioners in connection with Kohima North Police Station Case No.09/2023 dated 13.03.2023 under Section 120(B)/417/464/465/499 of the IPC and also under Section

34/420/500/467/468 of the IPC read with Lotteries Regulation Act, 1998.

3. The facts leading to the filing of the instant petition is that the informant in the present case, Shri Zhothisa Dawhuo erstwhile Director of the Lotteries Department Nagaland had submitted a written report before the Officer-in-Charge of the North P.S Kohima and on the basis of the written report a case was registered as FIR No.009/2023.

4. It is stated that false FIRs on the same subject matter/facts and on the same sections of IPC have also been filed in different Police Stations in Kolkata, West Bengal on different dates. In the preceding year prior to the present FIR, another FIR had been lodged at Bidhannagar P.S, Kolkata by the Nodal Officer of Nagaland Lotteries at Kolkata. However, the petitioners have been discharged in the Bidhannagar P.S case by an order dated 22.11.2023 passed by the Additional Chief Judicial Magistrate Bidhannagar, North 24 Parganas, Kolkata. By filing an additional affidavit, the petitioners have also brought to the notice of this Court that another FIR dated 27.06.2022 has been filed at the Hare Street Police Station, Kolkata by another person. Pursuant to the FIR dated 27.06.2022, Hare Street Police Station has also registered the Case No.241 dated 23.08.2022 under Sections 34/120 B/406/409/417/418/420/467/468/471/488 IPC read with Section 3 and 4 of the West Bengal Gambling & Prize Competitions Act, 1957 and also section 7(3)/9 of the Lotteries Regulation Act, 1998 against the petitioners No. 1 to 5. In the Hare Street P.S Case No.241 dated 23.08.2022 investigation is still going on and charge-sheet has not been filed.

5. The learned counsel for the petitioners Mr. Imti Longjem submits that the FIR lodged at the North P.S Kohima is a classic example of

malicious prosecution, intended to harass, intimidate and silence the petitioners who have exposed large scale malpractices in the lottery trade. The petitioners have no personal or professional relationship with the complainant. The initiation of the criminal proceeding amounts to abuse of the process of law as the instant FIR has been lodged in order to counter the complaint made by the petitioner No.1 to the different Government agencies against the de-facto complainant/Zhothisa Dawhuo, and the distributors/agents/stockists.

6. It is stated that the alleged offence if any have occurred within the jurisdiction of Kolkota West Bengal. The petitioners are residents of Delhi and have never conducted any business in Kohima Nagaland. Therefore, no cause of action arises within the jurisdiction of North P.S Kohima making the FIR unsustainable. Further, the Additional Chief Judicial Magistrate, Bidhannagar has already discharged the petitioners in FIR No.206/2023 pertaining to Bidhannagar P.S filed on the same subject matter and same allegation and arising out of the same transactions. Therefore, continuation of the present FIR on the identical facts is barred by law.

7. The learned counsel for the petitioners further submits that the petitioners have filed multiple complaints before the various Government agencies prior to the filing of the instant FIR against them, including the Enforcement Directorate, Ministry of Home Affairs, Finance Ministry and others regarding large scale violations and GST evasion in the lottery trade. These complaints filed by the petitioners precede the FIR in question, clearly establishing the fact that the petitioners are not perpetrators but they are the whistle blowers. The petitioners have also

filed an additional affidavit dated 14.11.2025 bringing on record the charge-sheet 25.08.2025 which has been filed subsequently in the present case. It is stated that the investigation has now been completed and charge sheet has been filed against the petitioners in G.R Case No.49/2023 corresponding to North P.S Kohima Case No.009/2023. The charges against the petitioners are under Section 120B/417/420/464/465/467/468/499/500 read with section 34 IPC and 7(3) of the Lotteries regulation Act, 1998. The supplementary charge sheet dated 09.10.2025 has also been brought on record by the petitioners.

8. The learned counsel for the petitioners relied on the following cases in support of his contentions:-

i. ***T.T. Anthony vs State of Kerala reported in (2001) 6 SCC 181,*** where it was held there can be no second FIR and consequently no fresh investigation on receipt of every subsequent information in respect of same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences.

ii. ***Babubhai-vs- State of Gujarat in (2010) 12 SCC 254,*** where the Supreme Court held that the court has to examine facts and circumstances giving rise to the FIRs and the test of sameness has to be applied to find out whether the FIRs relate to the same incident or are in regard to the incident which are two or more parts of the same transaction. If the answer is in the affirmative, the second FIR is liable to be quashed. However, where the version in the second FIR is different and they are in respect of two different incidents/crimes, the second FIR is permissible.

iii. In ***Amitbhai Anilchandra Shah -vs- CBI. (2013) 6 SCC 348***, it was held that a second FIR in respect of an offence or different offence committed in the course of the same transaction is not only impermissible but violates Article 21 of the Constitution. If an offence forming a part of the second FIR arises as a consequence of the offence alleged in the first FIR, then offences covered by both the FIRs are the same and accordingly, the second FIR will be impermissible in law. Merely because two separate complaints are lodged it does not mean they cannot be clubbed together. Administering criminal justice is a two-end process, where guarding the ensured rights of the accused under the Constitution is as imperative as ensuring justice to the victim. A just balance between the fundamental rights of the accused guaranteed under the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. Sweeping power of the 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 offence.

iv. In ***Arnab Ranjan Goswami -vs- Union of India. (2020) 14 SCC 12***, it was the view of the Hon'ble Supreme court that multiple FIRs filed in various police stations and in different States arising out of the same cause of action barring the first FIR, is to be quashed. And that an FIR cannot be filed for an offence of defamation.

v. ***Anju Chaudhary -vs- State of Uttar Pradesh. (2013) 6 SCC 384***

It was held that a second FIR for the same incident cannot be

registered. The facts of the case have to be examined and apply the 'test of sameness' to find out whether both the FIRs relate to the same incident and to the same occurrence and whether they are with regards to incidents which are two or more parts of the same transaction or relate to two completely distinct occurrences. If the answer falls in the first category, the second FIR is liable to be quashed. However, where the version of the second FIR is in respect of two different incidents or crimes, the second FIR is permissible.

vi. ***Mohd. Zubair -vs- State (NCT of Delhi) in (2023) 16 SCC 764,***

Petitioner was granted liberty to approach the High Court for quashing of FIRS under Section 482 of the CrPC. However, the investigation relating to all FIRS was entrusted to one investigating authority.

vii. ***Ramesh Chandra Gupta -vs- State of Uttar Pradesh. (2022) 18 SCC 706***

An FIR ought to be quashed where the allegations made therein, even taken at their face value and accepted in their entirety does not prima facie constitute an offence or make out a case against the accused.

9. In view of the above submissions and the authorities relied upon, the learned counsel for the petitioners submits that the present case is a fit case to invoke the inherent powers of this Court under Section 528 BNSS and prays that FIR dated 13.03.2023 filed at Kohima North P.S pertaining to Kohima North PS Case No.009/2023 and any consequential criminal proceedings initiated against the petitioners may be quashed and

set aside.

10. The learned Special P.P. Mr. T.R Deuri appearing for the State respondents submits that the FIR filed at the North P.S Kohima and the charge sheet filed thereafter reveals facts and circumstances and offences which are distinctly different from the FIR filed at Hare Street P.S Kolkata. The learned P.P. submits that the complainant Mr. Zhothisa Dawhuo who was the then Director Nagaland State Lotteries when the complaint was lodged is a victim and an aggrieved person inasmuch as his signature was forged by the petitioners in the fake paper lottery tickets. The Government of Nagaland is also aggrieved as substantial losses have been incurred by the Government due to the action of the petitioners. Moreover, the official logo of the Nagaland State Lotteries has also been forged to be used in the fake paper lottery tickets. The learned P.P. submits that the investigating agency is also contemplating to add section 482 and 483 of the IPC to the charges inasmuch as the petitioners have committed the offence of using false property mark and counterfeiting a property mark used by others as described in Section 482 and 483 of the IPC.

11. The learned Special P.P. submits that the petitioner No.1 has also filed RTI applications to the Department and by doing so has procured the agreement copy between the Government of Nagaland and the distributor which is a confidential document and he has disclosed the same in public domain thereby attracting an offence under the Official Secrets Act, 1923 which will also be added to the charges.

12. Therefore, the learned P.P submits that the FIR lodged at the North P.S Kohima discloses a range of distinct and separate offences and also

includes those offences covered by the FIR lodged at Hare Street P.S Kolkata. The learned P.P. also submitted that even though Section 500 of the IPC is a non cognizable offence, in view of the provisions of section 155 (4) Cr.PC, when a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case. In this regard, the learned P.P relies on the case of ***Shiv Kumar Agarwal vs State of Meghalaya and Ors*** reported in ***2013 CRL.L.J.421*** where a coordinate Bench of this Court has held that the legal fiction enacted in sub section (4) of Section 155 CrPC provides that even a non cognizable offence shall be treated as cognizable and it was held that a non cognizable offence like section 500 IPC when tagged with cognizable offence, full effect has to be given to the statutory fiction and carry it to its logical conclusion, i.e. we have to treat the non cognizable case as cognizable offence till the end of the trial provided that there is prima facie case for the trial even though there is no complaint from the aggrieved person under Section 199 (1) Cr.PC. The learned Spl P.P. has relied on the following cases in support of his submissions:-

- i. ***Upkar Singh vs Ved Prakash*** and others reported in AIR 2004 SC 4320.
- ii. ***P. Chidambaram vs Directorate of Enforcement*** reported in AIR 2019 SC 4198,
- iii. ***State of Maharashtra and others vs Ishwar Piraji Kalpatri*** and others reported in AIR 1996 SC 722,
- iv. ***State of Haryana and others vs Ch. Bhajan Lal*** and others reported in AIR 1992 SC 604,

- v. ***Odela Satyam and another vs State of telengana and others*** reported in AIR 2025 SC 4592
- vi. ***State of Rajasthan vs Surendra Singh Rathore*** reported in AIR 2025 SC 1096.
- vii. ***State of Orissa vs Sharat Chandra Sahu*** and another reported in AIR 1997 SC 1
- viii. ***Dinesh Tiwari vs State of Uttar Pradesh & Anr*** reported in AIR 2014 SC 3502
- ix. ***M/s Neeharika Infrastructure Pvt.Ltd vs State of Maharashtra and others*** reported in AIR 2021 SC 1918
- x. ***Shiv Kumar Agarwal vs State of Meghalaya and Ors*** reported in 2013 CRI.L.J. 421.

13. In view of the fact that the Kohima North P.S FIR reveals distinct and separate offences and in view of the fact that the cases relied upon by the petitioners are distinguishable on facts from the present case, the authorities relied upon cannot be applied to the instant case. The learned P.P. submits that the petition is therefore devoid of merit and the same may be dismissed.

14. This Court has given its anxious consideration on the submissions of the learned counsel for the parties. This Court has also examined the case laws relied upon by the parties and also perused the trial court records specially the statements of the witness recorded under Section 161 Cr.PC and the charge sheet.

15. The petitioners herein have invoked the jurisdiction under Article

227 of the Constitution of India read with Section 528 of the BNSS for quashment of the FIR dated 13.03.2023 lodged at the North PS Kohima holding that on similar and identical cause of action and allegations, the FIR dated 22.06.2022 has been lodged at the Hare Street P.S leading to the registration of the Hare Street P.S Case No.241 and therefore, when the FIR had already been registered at the Hare Street P.S, the second FIR at the North P.S Kohima could not have been lodged and entertained.

16. In the case of ***Upkar Singh (supra)***, the Hon'ble Supreme Court while distinguishing the case from that of ***T.T.Antony (supra)***, held that, *"17*****but when there are rival versions in respect of the same episode, they would normally take the shape of two different FIRs and investigation can be carried on under both of them by the same investigating agency"*.

17. In the case of ***Surender Kaushik and others vs State of Uttar Pradesh and others*** reported in ***(2013) 5 SCC 148***, the Hon'ble Supreme Court took into consideration the case of T.T. Anthony(Supra) and also the case of Babubhai(supra). The Court also referred to the case of *Ram Lal Narang vs State (Delhi Admn)* reported in *(1979) 2 SCC 322*. It was held that in *Ram Lal Narang*, the Court was dealing with the facts and circumstances of a case where two FIRs were lodged and two charge-sheets were filed. The Court had taken note of the fact that the conspiracy which was the subject matter of the second case could not be said to be identical with the conspiracy which was the subject matter of the first one although the conspiracy which was the subject matter of the first case, may perhaps be said to have turned out to be part of the conspiracy which was the subject matter of the second case. The Court

opined that occasion may arise when a second investigation started independently of the first may disclose wide range of offences including those covered by the first investigation. The Court therefore did not find any flaw in the investigation on the basis of the subsequent FIR.

18. Having considered the T.T.Anthony case and the Babubhai case, the Apex Court in the case of *Surender Kaushik* came to the conclusion that rival versions in respect of the same incident do take different shapes and in that event lodgment of two FIRs is permissible. The Apex Court in the facts and circumstances of that case held that the allegations made were distinct and separate and if the investigation was scuttled by quashing the second FIR, the complainant in the other FIR would be deprived of justice and that the allegation that the second FIR relating to the same cause of action and the same incident was an attempt to improvise the case was not correct. Even though both the FIRs related to use of fake and fraudulent documents by the accused persons, the Apex Court held that that second FIR could be sustained.

19. The Hon'ble Supreme Court's ruling in *Surendra Singh Rathore, (supra)* provides much needed clarity on the circumstances under which a second FIR can be maintained. It was held 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”.

20. In the case of ***Surendra Singh Rathore (supra)***, the Hon’ble Supreme Court’s reasoning pivoted on whether the records of the second FIR revealed a new or larger factual matrix. The Rajasthan High Court had taken the view that both FIRs captured essentially the same alleged misconduct, i.e., a government official demanding bribes from specific complainants. Therefore, the High Court considered the second FIR as superfluous, a matter that should have been covered under further investigation of the first FIR.

The Hon’ble Supreme Court disagreed, emphasizing that the second FIR provided details about a larger conspiracy involving additional individuals, more extensive corruption, and different time frames. It was not merely the same transaction repeated. Rather, it encompassed multiple instances of alleged bribery with various middlemen facilitating unlawful gains for multiple licensees. Because of these additional allegations and previously unknown scope, the second FIR did not violate the “test of sameness.” Furthermore, the Apex Court underscored that quashing the second FIR would effectively prevent law enforcement from conducting a full investigation into widespread corruption. The interests

of justice and the public interest in rooting out corruption necessitated allowing the second FIR to stand.

21. The Apex Court while deciding multiplicity of FIR in ***Babubhai (supra)*** held that courts must determine the '*test of sameness*' with utmost judicial parity. The Supreme Court has held that the test of sameness is to be applied to find out whether both the FIRs relate to the same incident in respect of the same occurrence or are in regard to the incidents which are two or more parts of the same transaction. If affirmative, the second FIR is liable to be quashed. However, in case the contrary is proved and the version in the second FIR is different with respect to two different incidents/crimes, the second FIR is permissible.

22. In the backdrop of the above referred authorities, this Court would like to examine the contents of the two FIRs. The first FIR lodged on 27.06.2022 at the Hare Street P.S was filed by one Rohit Pramanik. The grievance of the informant therein was that he is a regular buyer of paper lottery ticket organized by the State of Nagaland, Sikkim, Mizoram and West Bengal. He came to know that the accused persons were engaged in producing and manufacturing fake lottery tickets and fake winning tickets. It is also stated in his complaint that the accused persons are involved in organizing illegal online lottery in violation of the Notification dated 21.05.2013 by which the State of West Bengal had banned the sale of marketing of online lottery ticket in the State of West Bengal. It was also alleged therein in the complaint that the accused persons have defrauded the respective States and Central Government for a huge sum of money with regard to nonpayment of GST. The aforementioned complaint was

registered by the Hare Street P.S as Hare Street P.S Case No.241 under Sections 34/120 B/406/409/417/418/420/467/468/471/188 of the IPC read with section 3 and 4 of the West Bengal Gambling and Prize Competitions Act, 1957 and section 7(3)/9 of the Lotteries Regulations Act, 1998.

23. This Court had also examined the FIR lodged at North P.S Kohima and also the charge-sheet dated 25.08.2025. Initially the case was registered under section 120(B)/417/464/465/499 IPC and subsequently additional sections were added and on 22.08.2024, the Court allowed the inclusion of section 34/420/500/467/468 IPC read with section 7(3) of the Lotteries Regulations Act, 1998 against the accused persons. It is seen from the charge sheet that there is a prima facie case against the petitioners for forging the official logo and name of the Nagaland State Lottery, and also forging the signature of the Director of the Nagaland State Lotteries as well as misusing and putting in public domain confidential documents of the Nagaland State Lotteries, in addition to selling the fake paper lottery tickets in the State of West Bengal. It is seen that there is a prima facie case for causing huge financial loss to the public revenue of the Government of Nagaland. The Section 161 CrPC statements of the witnesses also reveals that by selling the fake lottery tickets the accused persons were evading taxes in the form of GST and TDS and thereby causing loss of revenue to the Government of Nagaland.

24. In the opinion of this Court, the second FIR lodged at the North P.S Kohima was filed by the Director of the Nagaland State Lotteries who was a victim inasmuch as his signature was forged to commit the offences. The second FIR also discloses a range of offences including those covered

by the first FIR but other distinct and different offences have also been made out. Therefore, as it was held in the case of *Surender Kaushik(supra)*, rival versions in respect of the same incident takes different shapes and in that event lodgment of two FIRs is permissible. The complainant in the Hare Street P.S case had his own grievance however, that would not debar the complainant in the Kohima North P.S case to lodge the FIR in connection with the same incident which is distinguishable because of other distinct offences. What is prohibited according to *Surender Kaushik(supra)* is any further complaint by the same complainant against the same accused subsequent to the registration of the case under the Code. As made clear by the three-judge bench in *Upkar Singh(supra)*, the prohibition does not cover the allegations in another FIR alleging a different version of the same incident and rival versions in respect of the same incident do take a different shapes and in that event, lodgment of two FIRs is permissible.

25. The two FIRs in the instant case also reveals allegations made from different spectrums and different versions put forth by different persons. The grievance of the complainants in the North P.S Kohima Case No.009/2023 corresponding to G.R Case No.49/2023 is not identical to that of the complainant in the Hare Street P.S Case at Kolkata even though some of the sections are definitely overlapping. However, there is prima facie case against the petitioners for different and distinct offences in the Kohima North P.S Case. If the FIR and consequent proceedings are scuttled by quashing the second FIR, the complainant in the other second FIR would be deprived of justice. It was held in *Surendra Singh Rathore* that a second FIR is permissible when the ambit of the two FIRs is

different even though they may arise from the same set of circumstances.

26. The question as to whether Section 500 IPC could have been registered against the petitioners and whether Section 500 IPC is to be dropped will be dealt with by the learned Trial Court at the appropriate stage.

27. The Hon'ble Apex Court in the case *State of Haryana Vrs Bhajanlal, 1992 Supp (1) 335*, has established definitive guidelines for quashing FIRs under Article 226 or Section 482 CrPC, ruling that such powers should be used sparingly to prevent abuse of process or miscarriage of justice. The Apex Court laid down 7 specific criteria as to when an FIR or investigation may be quashed, primarily focusing on cases where allegations are absurd, inherently improbable, or maliciously instituted with ulterior motives, whereas in the instant case the facts and circumstances do not come within the criteria given in *Bhajanlal*. In the case of *Jitul Jentilal Kotecha Versus State of Gujarat* reported in *(2022) 13 SCC 652*, the Hon'ble Supreme Court has opined that the High Court must exercise its inherent powers under Section 482 CrPC sparingly and with circumspection.

28. It is a well-settled position of law that judicial discretion depends on facts and circumstances of each case. In view of the above discussion and observations, this Court is of the view that the instant case is distinguishable on facts from that of the facts in the case of T.T.Anthony (supra) or Babubhai (supra) and the proposition of law laid down in the cases relied upon by the petitioners are not applicable to the case at hand and resultantly the petitioners have not been able to make out a case for this Court to exercise its

inherent jurisdiction under section 528 of the BNSS read with Article 227 of the Constitution of India to quash the FIR and the consequent proceedings.

29. The petition is accordingly dismissed and disposed of.

JUDGE

Comparing Assistant